

## The Ministère de la Sécurité publique

The mission of the Ministère de la Sécurité publique is to ensure that the Québec population lives in a safe environment that fosters its collective development, where individual rights and freedoms are respected. The department acts particularly in the areas of prevention, the fight against crime, the management of correctional services, and civil protection.

Citizen complaints concern civil protection and correctional services.

### Civil protection

Part of the mission of the Ministère de la Sécurité publique is to develop the national civil protection plan. It is responsible for coordinating government action and the administration of financial assistance programs in this field.

### Type of complaints

#### Complaints reviewed by the Québec Ombudsman

Under investigation at April 1, 2007	Received	Civil protection				Under investigation at March 31, 2007
		Investigated*				
		Referred	Interrupted	Unsubstantiated	Substantiated	
1	4	-	2	1	-	2

\* Excluding complaints whose processing was interrupted or which were referred.

### Overview of the situation

#### Erosion of the St. Lawrence estuary shoreline

In 2006-2007, the Québec Ombudsman was particularly concerned with the erosion of the banks of the St. Lawrence. Our analysis, which was prompted by the problems reported by two citizens' committees from the North Shore region, led to two observations in this matter. These two observations, notably regarding the availability of information and its dissemination to citizens and the government's information plan, formed the basis of the Québec Ombudsman's focus, structuring its subsequent interventions.

In fact, the Québec Ombudsman noted that with regard to the management of erosion on the seacoast of the North Shore, a first communication on a potentially imminent risk was initially transmitted to the citizens involved in the fall of 2004. This first communication was followed by a period of silence which lasted nearly two years. Citizens did not have access to fuller and more detailed information until June 2006, when the expert committee mandated to analyze the situation published its report.

The government, it bears reiterating, introduced its framework for the prevention of natural hazards (more specifically the erosion of shores, ground motions and floods), in November 2006. This framework, the *Cadre de prévention des principaux risques naturels*, defined a three-phased approach, namely risk analysis and communication, solution identification and solution selection and implementation. The Ministère de la Sécurité publique was then mandated to supervise the project's coordination.

To ensure the application of the risk prevention framework, a governance structure was set up and an interdepartmental committee on prevention was created. This committee, whose coordination was the responsibility of the Ministère de la Sécurité publique, comprises the following departments: the Ministère des Transports, des Affaires municipales et des Régions, the Ministère du Développement durable, de l'Environnement et des Parcs, and the Ministère des Ressources naturelles et de la Faune.

Through their respective mandates and missions, which include the security of persons, the management of public land, environmental protection, road network safety and land use planning, each of the departments involved in this issue has a specific expertise qualifying it to take on such a wide-ranging issue.

## Ombudsman follow-up and actions

### Four recommendations in 2006-2007

In its 2006-2007 annual report, the Québec Ombudsman issued four major recommendations to the departments mandated to implement the framework for the prevention of natural hazards. These mainly concerned the following elements:

- The need for coordination of government actors;
- Standardization of methods;
- Implementation of a work schedule with known deadlines;
- Citizens' right to comprehensive information in a timely fashion.

The Québec Ombudsman followed up with the departments to learn what they had planned or done in 2007-2008 with regard to each of its recommendations.

## Coordination of government actors

The information obtained allowed us to ascertain that all of the departments in question participate in meetings of the interdepartmental committee on prevention. The committee's activities over the past year have focused on the monitoring and progress of the works underway. The committee also ratified the risk prevention framework activities planned for 2007-2008 and launched the development of the integrated communication strategy.

In 2007, the interdepartmental committee also formed a risk prevention steering committee in which directors from each of the partner departments participate.

Lastly, three scientific committees were created. Reporting to the steering committee, their mandate consists of analyzing specific problems related to the three primary natural hazards, namely erosion, flooding and ground motion. Again, the partner departments are actively involved. The "Erosion" committee is notably supported by an expert scientific committee comprised of specialists from scientific fields, universities and the private sector, among them the Ouranos Consortium, INRS-ETE, UQUAR.

## Standardization of methods

With this recommendation, the Québec Ombudsman sought to increase government actors' awareness of the difficulties facing citizens impacted by shoreline erosion. It also aimed to simplify citizen initiatives. The active participation of the partner departments in the search for concrete solutions and in providing cohesive and timely support to the citizens affected is designed to respond to this concern.

## Implementation of an action plan

Each committee adopted a work plan. Prioritized interventions were developed by the various actors, based on specific issues, problems or events.

A project plan, running from November 2007 to October 2008, was approved by the interdepartmental committee on prevention in the fall of 2007. This plan targets the regional county municipalities (RCMs) and local municipalities for which activities and deliverables are anticipated. It also identifies the government departments and agencies involved and indicates the targeted deadlines.

## Citizens' right to comprehensive and timely information

The four recommendations issued last year rested on a concern that citizens quickly receive the information necessary to ensure the safety of their family and property, and that the two-year delay in handling the problem on the North Shore not be repeated.

In this regard, the recommendations regarding the implementation of the government framework for prevention of natural hazards were followed, to the Québec Ombudsman's satisfaction. This being said, the government communication strategy introduced puts somewhat of a damper on this good news.

Indeed the information gathered by the Québec Ombudsman from the Ministère de la Sécurité publique does not allow us to conclude that the problems referred to in the 2006-2007 report were wholly resolved, nor that the information is now comprehensive and being made available in a timely fashion.

In its 2006-2007 annual report, the Québec Ombudsman quoted a department statement regarding the importance of this element to the management of the risk prevention framework :

*“Communicating the risk, an activity with which Services Québec is associated, represents a crucial step in the management of the prevention framework. Accordingly, responsibility for communications has been handed over to subcommittees of regional civil protection organizations in order to keep municipal circles and the public well informed.”*

Yet the interdepartmental committee did not begin developing a global communication strategy until 2007, and at this time, the strategy has yet to be implemented.

The Québec Ombudsman reiterates that the introduction of a governance structure and the search for solutions to seacoast erosion must be buoyed by citizen support. It also feels that this support requires that citizens be informed of risks in a timely fashion as well as understand the measures set up to come to their assistance.

## Consolidation of knowledge and experience

In the reasonably near future, the government and its partners will be called upon to intervene in other regions of Québec. More than ever, the problems observed in the management of the erosion of banks on the North Shore must not be repeated.

Over the next year, the Québec Ombudsman will monitor two specific elements. On the one hand, it will carefully follow the issue's systemic development, particularly as regards the implementation of a communication strategy for all of the regions affected by shoreline erosion. And on the other hand, the Québec Ombudsman will, when addressing individual cases brought to its attention, be particularly vigilant in ensuring that the harmonized management mechanisms and specific programs or services it was apprised of this year generate concrete results in the field.

## 2007-2008 recommendations

Given the importance of the government framework for prevention of natural hazards ;

Given that the introduction of this framework's governance structure and the search for solutions must rest on citizen support ;

Given that such support is only truly possible when citizens are properly informed of risks in a timely fashion as well as the measures developed to offer them any necessary assistance ;

## THE QUÉBEC OMBUDSMAN RECOMMENDS :

That the Ministère de la Sécurité publique, in its quality as the coordinator of the government framework for prevention of natural hazards, implement as soon as possible a global communication that is adequately supported and in line with objectives as regards the management of risks to the population.

## Comments from the department

The following statement from the Ministère de la Sécurité publique was issued by its Deputy Minister :

*“The Québec Ombudsman recommended that the department... implement as soon as possible a global communication that is adequately supported and in line with objectives as regards the management of risks to the population.”*

The following comments are proffered to ensure that expectations regarding the government’s communication strategy for the framework for the prevention of natural hazards do not exceed the latter’s context and objectives.

- The current prevention framework project, begun in November 2006, is slated to be completed over a five-year period.
- The risk prevention framework’s objectives are :
  - To establish a portrait of the developed areas, infrastructure and equipment necessary to communities ;
  - To enable municipalities coping with problems involving natural hazards to improve their use of land, and to investigate all possible risk prevention and mitigation solutions ;
  - To implement those solutions that are most suitable to each environment.
- The work is executed in phases, and additional knowledge is acquired as risk analysis activities are completed. The communication of information to municipal and regional authorities, then to citizens, is thus spread out over time.
- The project essentially consists of offering financial, scientific and technical support to and in conjunction with municipal and regional authorities.
- The majority of decisions, as well as the implementation of solutions, will be a municipal and RCM responsibility. They will thus be involved in the dissemination of information. The department, however, will be offering advice and support throughout the communication process.

It is important to emphasize that the risk prevention framework is first and foremost a support mechanism for municipalities and RCMs, designed to allow for the joint development of global and integrated interventions within a perspective of sustainable development. The framework does not address all of the risks or disasters that Québec residents may eventually be faced with. In this regard, however, the department, through its regular programs, permanently offers financial support to citizens who are victims or disasters or who face an imminent risk of disaster. More information on these programs is available on the department's Web site, at regional civil protection directorates and through Services Québec (brochures, Web pages in Portail Québec, etc.).

A government communication strategy for the framework for the prevention of natural hazards is in the process of being established. Once completed, it will be approved and adopted by the various departments concerned. It will apply more specifically to the prevention framework activities and objectives and as such, increasingly target municipal and regional agencies.

This should not be taken to mean that the department will attempt to dodge its responsibilities vis-à-vis citizens. While the prevention framework's communication strategy will in large part be designed for municipal and regional elected officials, and this on the basis of their jurisdictions and areas of expertise, the department will ensure that it focuses, even if indirectly, on the dissemination of information to citizens as additional knowledge is acquired.

The first phase in the risk prevention framework, namely analysis and risk communication activities, has been initiated in several areas, as a result of which some data are or will shortly be available for release.

The department also has a strong presence on the territory in question, where it is disclosing the information available thus far. It notably participated in the Commission itinérante de la FQM, as well as in two regional conferences of municipal and regional elected officials and in a meeting of North Shore citizens gathered to support the city of Sept-Îles.

In closing, the department fully concurs with the Québec Ombudsman's recommendation. It simply wishes to reiterate that the communication strategy for the risk prevention framework will be defined by the framework's context and objectives, and progressively introduced in conjunction with local and regional authorities as well as the partners having signed the framework for the prevention of natural hazards."

# Correctional services

## Type of complaints

### Complaints reviewed by the Québec Ombudsman

Correctional services						
Under investigation at April 1, 2007	Received	Investigated*				Under investigation at March 31, 2007
		Referred	Interrupted	Unsubstantiated	Substantiated	
152	3826	1162	1036	992	499	172

\* Excluding complaints whose processing was interrupted or which were referred.

The number of complaints submitted to the Québec Ombudsman by detainees rose once again this year. An increase in the prison population and the lack of personnel in detention facilities were two factors contributing to this increase.

The distribution of complaint grounds was sensibly the same as in 2006-2007. We note, however, that while some types of complaints are decreasing, problems at facilities are still omnipresent. This is the case for complaints regarding accommodation conditions, the decrease in which is not however related to an improvement in detention conditions. Based on the particularly serious circumstances observed, it appears rather that detainees are waiting until the situation becomes unbearable before contacting the Québec Ombudsman.

Detainees are no longer complaining about being two or even three to a cell, but are increasingly addressing the lack of access to showers or a change of clothing. The same can be said of prolonged shared use of gyms, which was the subject of fewer complaints, likely because of a general lassitude and the limited number of available alternatives.

Detainees, much like facility management and officers, are seemingly becoming inured to situations that a mere two years ago would have been inconceivable.

Complaint grounds	2006-2007	2007-2008
Healthcare	25 %	24 %
Loss of rights or privileges	12 %	10 %
Accommodation conditions	9 %	5 %
Transfers and transportation between facilities	9 %	9 %
Loss of personal belongings	8 %	10 %
Classification of detainees	8 %	7 %
Services and activities	7 %	9 %
Behaviour of officers and maltreatment	5 %	5 %
Management and calculation of sentences	5 %	6 %
Security measures	3 %	3 %
Procedures regarding permission for absence	3 %	4 %
Discipline	3 %	3 %
System for handling complaints	3 %	5 %

## Overview of the situation

### Correctional services overpopulation and reform

In its 2006-2007 annual report, the Québec Ombudsman identified numerous challenges that the Services correctionnels du Québec had to contend with. The coming into force of the Act respecting the Québec correctional system in February of 2007, at a time when detention facilities were significantly overcrowded, raised legitimate concerns.

The Québec Ombudsman this year evaluated certain elements of the new legislation's coming into force. A number of meetings were held with department officials to follow up on the recommendations made in the 2006-2007 annual report.

The Québec Ombudsman also increased its presence in the field, carrying out 15 visits and holding numerous exchanges with the authorities at several facilities. During these visits – conducted as the correctional system was coping with various issues including overpopulation, a major normative framework reform and a lack of personnel – the Québec Ombudsman focused primarily on the infringement of detainee rights and the status of measures promoting social rehabilitation. Lastly, as part of the activities undertaken last year, the Ombudsperson personally held working sessions with detention facilities in Amos, New Carlisle and Québec.

### A constantly growing prison population

Ministère de la Sécurité publique statistics for 2006-2007 attest to a daily average population of 4,192 detainees. While the 2007-2008 data compiled are not yet available, by all indications this increase in the prison population appears to be continuing. This notably has an impact on services, salubrity, human decency and the security of both detainees and officers. This situation is particularly worrisome if we consider that facilities were not designed with such scenarios in mind.

Some days, the already taxed correctional system literally overflows. On September 27, 2007, for example, the population in all Québec facilities stood at 4,340 persons; this number was 4,440 on October 25 and 4,485 on December 5 of the same year. During these periods, the average number of available places was 4,229 and the system's average operational capacity<sup>9</sup> stood at 3,721<sup>10</sup>. In some recently built facilities such as Rivière-des-Prairies (542 beds), the population rose to as high as 660 people on a few occasions.

### Overpopulation

Based on data from the Ministère de la Sécurité publique, we were able to chart the prison population in Québec detention facilities on three dates when overpopulation was particularly critical.

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9 Operational capacity: the maximum number of beds that can be used in regular fashion without compromising the legal and security framework.

10 Excluding Havre-Aubert and taking into consideration that the facility in Sept-Îles is temporarily closed.



	2007/11/10	2007/11/17	2007/11/19
Population	4 753	4 753	4 650
% of available beds <sup>11</sup>	112,5%	112,5%	110%
% operational capacity	127,8%	127,8%	125%

For a more concrete overview of this data's local impact, the table below indicates, for the same dates, the degree of overpopulation for three facilities that account for nearly 40% of the available beds in the province's 18 facilities. These percentages represent, in order, ratios with regard to available beds in facilities and operational capacity ratios.

	2007/11/10		2007/11/17		2007/11/19	
Québec	738	(120,2%) (136,6%)	749	(122,0%) (138,7%)	703	(114,4%) (130,1%)
Rivière-des-Prairies	666	(122,9%) (139,6%)	644	(118,8%) (135,0%)	653	(120,4%) (136,8%)
Saint-Jérôme	446	(114,9%) (130,7%)	443	(114,1%) (129,9%)	447	(115,2%) (139,8%)

As a result of its visits to Québec detention facilities over the course of the last year, the Québec Ombudsman was able to note a certain degree of deterioration in detention conditions. Exchanges between the Québec Ombudsman, detainees and Correctional services representatives allowed us to learn how relations between officers and detainees tend to deteriorate to the point of directly or indirectly leading to infringement of detainee rights, notably because of tension ensuing from promiscuity, the overtime hours officers are required to work and the general dilapidation of the facilities.

## A fundamental trend with numerous implications

The crime rate observed since 2000 has been steadily decreasing, and is thus not a contributing factor to the recurring problem of overpopulation. Along with the growing percentage of persons in preventive detention (47% in 2006-2007), changes in practices over the last several years, notably with regard to the granting of temporary absences, are in part responsible for the increase in the prison population. Until February 2007, Correctional services were responsible for all TA (temporary absence) requests. While the average number of persons granted day passes in 2001-2002 was 870, this number had plummeted to 269 by 2006-2007.

In other respect, under the new law that came into force in February 2007, offenders condemned to a sentence of six months or more, but less than two years, are systematically evaluated by a special actuarial tool before the Commission québécoise des libérations conditionnelles will consider granting a conditional release or accepting a request for preparatory release activities. It is notably too early to determine the possible impact of this tool, implemented a mere few months ago, on the Commission's decision-making process.

<sup>11</sup> Excluding Havre-Aubert and taking into consideration that the facility in Sept-Îles is temporarily closed.

As for the number of detainees who refuse a conditional release it is steadily increasing, and has risen by 50% over the last five years.<sup>12</sup> This surge is obviously puzzling. In attempting to explain this increase, the Commission each year brings up the lack or insufficiency of community resources in various regions.<sup>13</sup> Several regions do not have the necessary resources to meet detainee needs, as a result of which certain people prefer to complete their sentence rather than be forced to move to another region.

## Impending infrastructure renewal

On February 7, 2008 the Minister of Public Security officially announced that four new facilities would be built to replace six existing structures. Over time, notably by 2012, these new structures should create an additional 330 beds in the correctional system. The Québec Ombudsman applauds the relevance of finally, following years of discussions and studies, initiating the renovation of inadequate and dilapidated facilities. On February 12, 2008, the Conseil du trésor approved the installation of temporary modular buildings at the detention facilities in Québec, Trois-Rivières, Sherbrooke and Amos, effectively adding a total of 324 beds.

While the allocated investments are significant, it was high time that concrete efforts be made in this area. This being said, the creation of new detention beds should not negate the need for an in-depth analysis of the sources of the overpopulation problem.

The department has since 2004 benefited from tools for forecasting growth in the prison population. Not only have the worst scenarios already been exceeded, but the new beds announced last February will seemingly not be sufficient to meet current needs. In this regard, we feel that the temporary measures that will be implemented shortly should not detract from the importance of a coordinated analysis of the causes of lengthier prison stays.

Lastly, we feel that the announced reopening of the detention facility in Percé, an institution for treating sexual deviants, is probably a positive development, given the limited detention programs offered in this regard. Nevertheless, the full benefits of this decision will only be realized with the planning and introduction of mechanisms for supporting sexual deviants once they are released in the community. Currently, numerous regions have no specialized resources for continuing the treatment sexual deviants began in the detention environment. The Québec Ombudsman will closely monitor the proposed project with this particular perspective in mind. In conjunction with the second action plan, which will be prepared on the basis of the government's orientations vis-à-vis sexual assault<sup>14</sup> awaited over the next few months, the Ministère de la Sécurité publique and Ministère de la Santé et des Services sociaux must undertake to provide the financial support necessary to offer sexual deviancy services in communities in every region of Québec.

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<sup>12</sup> 1,066 people waived their right to a conditional release in 2006-2007, compared to 501 in 2000-2001.

<sup>13</sup> More information on this topic is included in the annual reports of the Commission québécoise des libérations conditionnelles.

<sup>14</sup> Ministère de l'Éducation (MEQ) et al., *Orientations gouvernementales en matière d'agression sexuelle*, Sainte-Foy, Québec, Ministère de la Santé et des Services sociaux, Direction des communications, 2001, 90 pp.

Comments from the Ministère de la Sécurité publique :

The following statement from the Ministère de la Sécurité publique was issued by its Deputy Minister :

“The Ministère de la Santé et des Services sociaux and the Ministère de la Sécurité publique are currently working together to establish conditions for supporting the reintroduction of sexual deviants into the community. The Ministère de la Santé et des Services sociaux is specifically cognizant of the importance of these particular services being available in all Québec regions.

The Ministère de la Sécurité publique will insist on the criticality of offering services to clients with a sexual deviancy problem in all regions within the framework of the *Modernisation des soins de santé dans les établissements de détention initiative*.”

## Ban on smoking

On February 5, 2008, the anti-smoking policy in detention facilities was amended, banning all smoking both inside and outside of facility walls. The experiences of other jurisdictions have taught us that allowing smoking in prison yards can make the enforcement of a tobacco ban inside the facility walls more difficult.

Three days after the new prohibition came into force, smoking was once again allowed in prison yards. This late announcement brought its share of problems, particularly in light of the onset of anti-smoking programs through prescription patches, a large-scale initiative representing significant effort, time and costs for a large number of stakeholders. It also proved problematic for the detainees who had made efforts to stop smoking.

Given the date on which these decisions were taken, it is currently impossible to report on the policy's application. The Québec Ombudsman will closely monitor this issue and make any necessary comments and recommendations at the appropriate time.

## Ombudsman follow-up and actions

The Québec Ombudsman's last annual report included eleven formal recommendations, seven of which were acted on by the department in 2006-2007.

Correctional services had since 2002 been waiting for the Act respecting the Québec correctional system to come into force. Decisions regarding the renewal of prison infrastructures, for which numerous consultations and studies had been completed, were also pending.

Fiscal 2007-2008 saw the renewal of normative tools and the introduction of major changes to the rules regarding permissions for absences and conditional releases. It was also the year in which studies on the construction and renovation of correctional

infrastructures were finalized. It also had the distinction of being a record year for prison overpopulation.

The Québec Ombudsman took careful note of these special circumstances when examining Correctional services' actions vis-à-vis the recommendations it made in its 2006-2007 annual report. We note that no in-depth initiatives or studies have yet been initiated for four of these recommendations.

The Québec Ombudsman also notes that the many recommendations it made directly to facilities were generally followed to the letter or alternative solutions were put forth to achieve the objectives targeted by the recommendations. The same holds true for the Québec Ombudsman's comments regarding administrative and normative draft documents, with recommendations being taken into account and adhered to in every instance.

The same, however, cannot be said for global recommendations that are more structural in nature. So while recommendations concerning government orientations on social rehabilitation, the transfer management system and improvements touching salubrity were initially welcomed, no significant progress has to date been made in these areas.

### **Recommendations regarding the portrait of the correctional services clientele**

The Québec Ombudsman recommended that the portrait of the correctional services clientele be better documented as of 2008-2009. In this regard, the Direction générale des services correctionnels is presently making admirable initial efforts, and has created a research group whose mandates include the updating of the portrait of the correctional services clientele. The Québec Ombudsman expects activities in this respect to continue and results to be available as of 2008-2009. This recommendation will thus be followed up on in 2008-2009.

Comments from the Ministère de la Sécurité publique :

“The text aptly reflects the progress of the research group's activities with regard to profiling the clientele of the Correctional services of the Ministère de la Sécurité publique, the results of which should be released in the fall of 2008. The group, working in conjunction with university partners, notably plans to publish profiles for four major clienteles – women, Aborigines, members of street gangs and detainees – by January 2009.”

## Recommendation on government orientations in terms of social integration

The Québec Ombudsman also recommended that the government adopt orientations regarding social rehabilitation. The reflection and orientation document which the Ministère de la Sécurité publique subsequently announced as being under development was not yet available as of March 31, 2008.

The Québec Ombudsman notes the major discrepancy between the actual situation and the department's stance vis-à-vis social rehabilitation, particularly in institutional documents. It also notes the existence of systemic problems, particularly with regard to:

- The management of detainees in Québec facilities, including delays in evaluating their needs;
- The disparity in the services designed to meet needs particularly with regard to drug addiction, sexual deviancy, violence, offered in Québec detention facilities;
- Existing programs' weaknesses, specifically as regards limitations or lack of funding, facilities and security personnel;
- Service interruptions or discontinuation due to the massive transfer of detainees;
- The lack of specialized resources, especially in certain Québec regions, for providing clinical support once detainees return to the community.

Given that social rehabilitation is central to the Act respecting the Québec correctional system<sup>15</sup> and as such, inherent to Correctional services' mandates and responsibilities;

Given that the objective involving the social rehabilitation of offenders is closely linked to other agencies' and departments' missions;

Given that existing efforts to develop programs in this area do not seem to be coordinated, nor developed according to objectives and priorities established in a global plan;

The Québec Ombudsman strongly reiterates the importance of cooperation among all of the departments and agencies involved in the social rehabilitation of detainees. As such, the Québec Ombudsman repeats its recommendation, this time to the Government of Québec, that an action plan be developed by December 2008 for the creation and management of social rehabilitation services.

Unless there is a major turnaround, Québec will see its prison population increasing, without any corresponding search for and promotion of solutions specifically adapted to social problems faced by former detainees. Such a situation will constitute a risk for the future of numerous of our youth while perpetuating the misery ensuing from criminality.

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<sup>15</sup> Sections 3, 21, 22 and 23 of the Act respecting the Québec correctional system put forth Correctional services' obligations in this regard.

Comments from the Ministère de la Sécurité publique :

“ A government action plan promoting the development and management of social rehabilitation services could incite the various government agencies involved to truly appropriate the social problems experienced by this sector of the population while also actively searching for effective solutions.

Moreover, some interdepartmental initiatives have already been introduced, with promising results. These involve the Ministère de l'Éducation, du Loisir et du Sport, with regard to academic training and socio-professional integration, and the Ministère de l'Emploi et de la Solidarité sociale, as concerns activities to develop offenders' employability. Correctional services, moreover, have created *Parcours*, a program that seeks to increase the awareness and mobilization of offenders prior to and during social rehabilitation.

Activities performed within the context of the *Modernisation des soins de santé dans les établissements de détention*, an initiative currently underway with the Ministère de la Santé et des services sociaux, will take into consideration detainee access to social services in the areas of drug addiction, spousal abuse and sexual deviancy. In addition to this, Correctional services is already involved in the application of the *Plan d'action interministériel en toxicomanie 2006-2011*, a program aiming to treat and reduce instances of drug addiction in Québec. In this regard, partner agencies and departments (Ministère de la Sécurité publique, Ministère de l'Éducation, des Loisirs et du Sport, Ministère de l'Emploi et de la Solidarité sociale, Ministère de la Justice, Ministère de la Famille et des Aînés, Ministère de l'Immigration et des Communautés culturelles, Ministère du Conseil exécutif and Ministère des Transports) have committed to mobilizing their respective networks, notably through prevention, intervention and treatment initiatives. The Ministère de la Sécurité publique aims to increase awareness of the needs of offenders while making more efficient tools available to personnel as a means of enhancing drug clientele treatments through a concerted approach with all partners.”

## Recommendation on the salubrity of detention facilities

The Québec Ombudsman last year recommended that the Ministère de la Sécurité publique work with the Ministère de la Santé et des Services sociaux to establish and implement without delay a plan to improve the salubrity of detention facilities, particularly from the standpoint of preventing disease and managing contamination risks. As at March 31, 2008, the Direction générale des services correctionnels was still working on a draft policy for infectious diseases. The Québec Ombudsman's policy, it should be noted, had a broader targeted scope than the mere adoption of legislative rules.

Detention facilities are prime candidates for the transmission of infections and parasites, notably due to overpopulation and the implied promiscuity, the numerous transfers, the lack of resources and the absence of specific standards for the cleaning of accommodation areas such as those used for transfers or to place an inmate in isolation. These sites must be considered not only from a security perspective, but with regard to public health.

At the Québec Ombudsman's request, the Direction générale des services correctionnels agreed to analyze, in 2008-2009, the possibility of implementing an inspection program with regard to the salubrity of detention facilities. The types of inspections and the body responsible for these will be analyzed, a process that the Québec Ombudsman fully intends to monitor and comment on.

In the interim, the Québec Ombudsman has asked the Société immobilière du Québec and Correctional services for their help in meeting the requests regarding the accommodation conditions of detainees in an adequate and timely fashion. This situation must not be allowed to continue.

Comments from the Ministère de la Sécurité publique :

"The Ministère de la Sécurité publique will in 2008-2009 partner with the Société immobilière du Québec to conduct an analysis prior to the development of an inspection program regarding the salubrity of detention facilities."

### **Recommendation regarding the layout of the premises**

The Québec Ombudsman held discussions with department officials regarding the infrastructure projects announced in February 2008. Follow-up of these projects, which are still in the study phase, will be conducted in concrete terms once further details are disclosed. The Québec Ombudsman will monitor follow-up of this recommendation for facilities to be built and renovated as well as for the erecting of temporary structures as equally announced.

### **Recommendation regarding an information management system for easier transmission of information subsequent to transfers**

In response to this recommendation, department officials maintain that a new system, whose implementation is planned over the next few years, should resolve several of the information management glitches during transfers.

The Québec Ombudsman wishes to see this system implemented as soon as possible. It should, moreover, compensate for the failures of the current system. Year after year, a significantly high number of complaints cite interrupted medical treatment due to information that is erroneous or transmitted late, the loss of personal belongings, or the transfer of detainees the evening before a medical appointment or a hearing in front of the Commission québécoise des libérations conditionnelles.

Until such time as a management system is implemented to consistently process transfers, Correctional services must absolutely conduct an in-depth review of the degree of coordination of their activities. This is particularly urgent with regard to the transmission of medical information, where interrupted treatment can have serious repercussions.

Comments from the Ministère de la Sécurité publique :

“The integrated information management system currently used is DACOR. All data regarding movement of the prison population is entered into this system.

Transfer practices are based on the evaluation of detainee files, with decisions taking into account a number of factors such as hearing dates and times, classification, etc.

While existing practices have been reviewed and amended, Correctional services will nonetheless remind detention facilities of the importance of rapidly transmitting medical information in cases of inter-facility transfers.

Phase 1 in the implementation of the *Système intégré d'information de justice* and more specifically its correctional component (CORNET) will run from around the beginning of 2010 to the end of 2011. This new system will notably facilitate taking into consideration numerous data for ensuring improved management of transfers.

### **Recommendation regarding the service levels necessary to achieve the objectives of the Act respecting the Québec Correctional System**

Several of the recommendations in our 2006-2007 annual report addressed the lack of resources in Québec's detention facilities. The Québec Ombudsman discerns that Correctional services are aware of this lack of resources and are attempting to devise solutions through various initiatives, as evidenced by the measures introduced to determine current and future needs. The Québec Ombudsman will continue to monitor the progress made in this regard.

### **Recommendation on the follow-up and adherence of timeframes for evaluating detainees**

Delays in evaluating detainees can impact the length of stays in detention facilities for individuals who could, in some cases, benefit from a release.

The number of pending evaluations in detention facilities is significant. The addition of probation officers for application of the related Act related and support from 27 new prison counsellors have been of some help. Whereas the objective of evaluating detainees with a sentence of six months or more before they have served 1/6 of their sentence was not reached during the first year of implementation, significant progress has been noted over the past few months. This being said, between April 2007 and January 2008, only 54.9% of detainees were evaluated before they had served the requisite 1/6 of their sentence. Note that data in this area varies widely depending on the facility and period of year.



Comments from the Ministère de la Sécurité publique :

“ To the 54.9 % of the population evaluated before 1/6 of their sentence is served, we must add another 36.1 % evaluated once 1/3 to 1/6 of their sentence has been served. This means that 91 % of detainees are evaluated before serving 1/3 of their sentence.

Year 2008 will see some changes to the evaluation process which will positively affect production time and evaluation delays : information from the actuarial tool, access to specific output providing information on prior infractions, as well as specialized training on drafting intervention plans.”

## Visits to detention facilities : a few of our observations

During its visits to detention facilities, the Québec Ombudsman begins by observing the detention conditions of detainees with its own eyes. The dilapidated state of various facilities, the recurrent overpopulation in nearly all facilities and the obvious lack of resources create unacceptable situations. Here are a few observations subsequent to the visits we conducted during the last year :

- In some facilities, reclusion sectors were particularly dirty or poorly kept up. When we toured one of these sectors, the personnel acknowledged the validity of detainee grievances whereby a toilet in one of the cells had been broken for over a month. The unit head in charge of the sector advised us that as a tenant, the facility was waiting for the Société immobilière du Québec, which had duly been notified of the problem, to take action. We would like to emphasize that persons in reclusion are generally confined to their cells up to 23 hours a day.
- Detainees admitted a week prior stated that they had no towels with which to dry themselves. The director of administrative services we spoke to advised us that the facility had such items in stock but that personnel had failed to distribute them in the living areas.
- Admissions areas of several facilities are regularly transformed into slapdash dormitories to provide detainees with a place to sleep. These sectors, it must be noted, usually incorporate small cells where four detainees and more can be confined to sleeping on the floor.
- In the same vein, an evening visit to a facility with a major overpopulation problem allowed us to observe the lengths to which authorities had to go to meet space-related needs in critical overcrowding situations.

Our observations are striking :

- Newly admitted detainees were kept in rooms with no possibility of having access to their personal belongings. As a result, many of them had been wearing the same clothes for several days and in some cases, for the previous two weeks even.
- 16 people having to make do with a single shower had the effect of generating a significant increase in ambient moisture.

- With no sentry boxes available to ensure ongoing monitoring of rooms, the facility had resorted to installing cameras. Because this camera system required neon or lithium lights to operate, detainees had to sleep in brightly lit conditions.
  - One of the rooms we visited had no communication system for contacting personnel in the event of an incident or emergency.
- Some of our regular visits focused on specific aspects of facilities' organization. This particularly applied to our visits of a few nursing stations this year. Here is a summary of our observations during these visits:
    - There is no system for classifying detainees on the basis of their health condition: persons being given antibiotics, for example, are in close contact with other detainees infected with the *C. difficile bacterium*.
    - Despite a gastroenteritis epidemic, some detainees from the sector continued to launder the clothes of all the detainees..
    - The physical layout of one facility's nursing station did not allow for safeguarding a suicidal detainee except in isolation and clad in anti-suicide restraints for a period of over three weeks.

## Difficulties and differences in the application of provincial procedures and guidelines

A number of administrative directives and guidelines have been modified and added since February of 2007. The Québec Ombudsman regularly notes that certain staff members fail to properly understand not only the new guidelines but also the old guidelines that are still in force. The Québec Ombudsman has also frequently noted that standards are interpreted differently depending on the facility involved.

### Guideline governing temporary absences

Numerous problems have been observed with regard to the application of the guideline on temporary absences since it came into effect on February 5, 2007. The Québec Ombudsman detected that detention facilities failed to process requests for temporary absences - notably for humanitarian reasons - according to the applicable provincial guideline.

In some cases, requests were denied on the sole judgment of an assigned officer or staff member, without having been examined by a review committee as provided for in the guideline. Lastly, the examination of a request for a temporary absence for humanitarian reasons was delayed as it could not be assessed by the actuarial tool. The department's directives do not comprise such a requirement, given the humanitarian aspect of the situations involved and the need to quickly examine such requests.

We notified the department as well as those facilities most implicated of the application-related problems we observed, so that they could make the necessary adjustments. Corrective measures have since been introduced.

## **Procedure governing the transmission of information to community organizations**

An administrative procedure regarding the transmission of detainee information to recognized community organizations has been in force since January 15, 2007. Under this procedure, the documents necessary to determine a person's eligibility to a therapy program or other inpatient services offered by such an organization must be consulted at the detention facility.

When this is impossible, a case study can be done over the telephone. This new practice aims to limit the disclosure of documents containing personal information. This procedure is particularly difficult to follow when a detainee is being transferred to another region and the community organization involved in the transition must send a representative who is often located a significant distance away. While the telephone option is a possibility, some organizations do not feel that such an exchange is sufficient. Detainee transfers are thus sometimes refused or delayed, causing the person involved to have to wait significant periods.

Subsequent to exchanges with the Québec Ombudsman, Correctional services sent out a system-wide memorandum amending the restrictive application of this administrative procedure. Now, detainees are asked to authorize the fax or e-mail transmission of personal documents to community organizations, an approach that makes it easier for the latter to evaluate detainee files.

## **Guideline governing visiting rights : interpretation of the notion of spouse**

The Québec Ombudsman received numerous complaints regarding facilities' interpretation of the new rules governing visiting rights. The Regulation under the Act amends certain rules, notably legalizing facilities' authority to refuse entry to certain persons. These changes were interpreted differently by some facilities, at times in a highly restrictive manner.

In so doing, some facilities ignored the regulatory provision under which detainees could receive visitors who were not members of their immediate family, claiming that detainees already had family members on their list of visitors. Other facilities refused to consider adding the name of a detainee's friend to the list of visitors, on the sole grounds that the detainee had previously failed to demonstrate that this friend was in fact the spouse under the legal definition.

Lastly, some officers refused to add the name of a person whom a detainee claimed was a spouse because the detainee was unable to provide supporting evidence of cohabitation of more than one year. Facilities should have taken into consideration the fact that these persons were the parents of two children and proceeded to examine the request from another perspective. Instead, the Québec Ombudsman's intervention was necessary to prevent these visits from being denied.

## Problems noted in the application of older guidelines still in force

The provincial guideline governing claims introduced in 1989, while still in force, was once again at the heart of numerous of our interventions over the past few months. The goal : ensuring its provisions were adhered to. We observed a number of problems, among these a failure to forward requests to the persons responsible for examining them, delays in responding to claims from detainees which exceeded the 21-day period provided for, and a lack of information regarding available recourse to an administrative review.

This also holds true for the provincial guideline on healthcare, which includes a provision under which detainees in reclusion are to be visited by healthcare personnel every day.

Notwithstanding the fact that this standard is included in the United Nations' minimum standards for the treatment of detainees<sup>16</sup>, the Québec Ombudsman must regularly remind facilities and their personnel of its existence as well as the reasons for which it was established, namely the mental health of persons placed in isolation.

## Communication deficiencies

The Québec Ombudsman's 2006-2007 annual report included a reference to deficiencies concerning communications between various detention facility actors. This problem was an issue in many of the complaints addressed by the Québec Ombudsman during the year. The following case depicts how inadequately transmitted information can lead to confusion and unfounded expectations for a detainee and his relatives or close acquaintances.

### Last resort

*A citizen incarcerated in April entered the facility with only the clothes on his back : jeans, a sweater, sneakers and socks. At the end of May, he requested that a woman who had been a source of significant support during his youth be allowed to bring him other clothes, knowing that she was the only person who could do this on his behalf. The citizen stated that he was given a copy of his request for authorization, which included a list of the personal belongings he wished to have brought to him. By the middle of June, however, he had still not received a response. Apprised of the situation, the Québec Ombudsman contacted the facility to obtain more details.*

*Facility officers attested that the request had been processed, with the facility granting the detainee the right to receive clothing from this person. Under the procedure followed in such cases, a copy of the request is only remitted to the detainee if a portion or all of the personal items requested are denied. A citizen who does not receive a copy with deleted items is to understand that his application has been accepted. In this particular instance, the detainee received a copy because one of the items requested had been denied. The citizen, because of the inadequate information provided, had been unable to learn the facility's position and notify those close to him.*

<sup>16</sup> Rules adopted by the first UN Congress on the Prevention of Crime and Treatment of Offenders, held in Geneva in 1955, and approved by the Economic and Social Council in resolutions 663 [XXIV] of July 13, 1957 and 2076 [LXII] of May 13, 1977.

*This practice was modified subsequent to our exchanges with the facility's management. Henceforth, a copy of the form including a clear response (accepted or denied) is provided to detainees so that they can notify family members that they can bring them the requested items. In this case, the detainee received authorization to have the requested clothing brought to him on the same day as the Québec Ombudsman intervened.*

## **Respect for detainee rights**

### **Failure to adhere to the “daily walk” provision**

Section 10 of the Regulation under the Act respecting the Québec correctional system stipulates that :

*“An inmate who is not working outdoors or who is not working outside the facility is entitled to walk or take physical exercise outdoors for one hour each day, unless the inmate is confined in administrative segregation.”*

Numerous complaints were received this year, particularly regarding the Montréal detention facility, citing that “daily walks” had been cut. These complaints gave rise to interventions with managers from the targeted facilities. Apparently, daily time outside was initially suspended for a temporary period because of various security issues. In other cases, daily walks were suspended due to a shortage of personnel.

For example, some persons were placed under protective custody but temporarily assigned to confinement due to insufficient space. The Québec Ombudsman was obliged to communicate with management of a facility on several occasions to ensure that the necessary steps were taken to respect the right to daily time outside of detainees under protective custody in the facility's regular section who were thus being kept in confinement 22 hours a day.

In another instance, all of the detainees of a sector were regularly deprived of their daily walk because of insufficient personnel. While the lack shortage of officers, a phenomenon that is more pressing during the summer months, makes it difficult to ensure the delivery of services to detainees, detention facilities are nonetheless required to provide detainees access to at least one hour of fresh air each day, and this unless prevented from doing so by a security-related emergency.

### **Management of reclusion and the isolation of detainees under surveillance**

Preventive isolation, disciplinary or administrative reclusion and confinement all have a major impact on the little freedom detainees have left. Similarly, keeping a detainee in such a restrictive category must be adequately rationalized by the personnel recommending such confinement and the manager or committee approving the resulting decision. Reclusion or isolation measures must rest on comprehensive notes and significant information from staff members, in addition to being subject to specific criteria.

Such measures can have a major effect on the mental and physical health of the persons involved, which is why the guideline on health services provides for a daily visit by facility nursing staff to detainees placed in reclusion. The Québec Ombudsman noted that this rule was not always adhered to.

Furthermore, the recorded information regarding isolation or reclusion measures was at times incomplete and the criteria in support of these decisions varied significantly from one facility to another.

The reasons for which Québec detention facilities use reclusion and isolation measures should be monitored. These may include preventive isolation for detainees with suicidal tendencies, administrative decisions with no disciplinary sanction or a reliance on reclusion cells in the event of overpopulation.

We have issued recommendations urging certain facilities to establish a log for recording relevant data regarding the use of isolation cells, including information on the detainee, the dates and hours of admittance and release, the grounds justifying the measure, along with any other relevant notes, including the dates and hours of visits by healthcare staff. In our opinion, such a measure should be implemented in all facilities.

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## Detention does not equate reclusion

*A citizen was given a sanction that consisted of seven days in reclusion. At the end of this period, sector officers advised him that he would have to do the rest of his time (one month) in reclusion. The citizen, because of behavioural factors, should normally have been moved to a secure sector with restrictions by the facility's management. Because this sector was completely filled, the detainee was simply kept in reclusion.*

*This meant that the detainee spent 23 out of every 24 hours alone in a cell, despite evaluation results which stated that such a measure could lead to self-mutilation or even suicide attempts. After having spent 16 days in reclusion, the citizen was eventually transferred to another facility so that he could be placed in a residential sector.*

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In this regard, the Québec Ombudsman made sure that nursing staff visited detainees in reclusion or isolation on a daily basis, as provided for in the guideline on health services. It also insisted that the facility record its use of these cells in a log, including details on the grounds for these decisions.

## Physical interventions and training

The Québec Ombudsman had occasion to query the adequacy of the information imparted to Correctional services officers when it analyzed various accusations of maltreatment and inappropriate behaviour.

This was notably the case with regard to training on physical intervention practices and problems involving mental health.

Facility authorities informed us that training sessions on physical interventions were often cancelled or postponed sine die because of cost concerns or due to lack of available personnel. In our opinion, measures must absolutely be taken in this regard, since postponing training in certain areas impacts the ability of officers to take action and can seriously infringe on detainees' fundamental rights.

Officers are in constant, close contact with a clientele experiencing a wide range of problems. The fragile balance between the power relationship, the surveillance and the support relation requires a vast and large knowledge and know-how of which physical interventions are only a part.

In the Québec Ombudsman's opinion, Correctional services must invest adequate resources in the basic training necessary for their staff, as well as in ongoing training, specifically in the areas of physical interventions, interventions in emergency situations, and the handling of difficult clients or detainees with mental health problems. Persons in charge went so far as to admit that officers can lose their cool when intervening with certain types of individuals. Given the high degree of stress related to the officer function and the restrictions ensuing from a lack of resources, ongoing training with regard to physical interventions should not be repeatedly postponed. The following examples aptly illustrate the need for such training :

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### **A useless intervention with foreseeable consequences**

*An incarcerated citizen complained about being mistreated when an officer entered her cell and proceeded to a physical intervention. The detainee, while in her cell, complained about the dosage of the medication she was receiving. Rather than simply advising her that the matter would be looked into, thereby allowing the detainee time to calm down, the Correctional services officer continued to argue with her and entered her cell, despite the foreseeable consequences.*

*Entering the citizen's cell under such circumstances could only serve to increase the tension, particularly since the detainee was later proven to be right with regard to the dosage of her medication. At our request, the officer's superiors met with the officer to ensure that such an event would not be repeated.*

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### **Immediacy is rarely a good solution**

*A citizen contacted the Québec Ombudsman to file a complaint of maltreatment during a physical intervention as part of a strip search. During its investigation, the Québec Ombudsman learned that the man in question had been searched within the context of a transfer of facility.*

*Despite the citizen's cooperation during the first strip search, the officer in charge had asked that it be repeated, feeling that he had failed to perform an adequate visual inspection. Despite the officer's steadfastness, the detainee refused to be subjected to a second search.*

*As in the first case, rather than delay the search to give the citizen time to think of the repercussions of refusing, the officers immediately went ahead with an unplanned physical intervention, which was notably deemed against good practices by the facility's own management.*

Despite being necessary, strip searches are activities that leave detainees feeling ill at ease. Respect for a person's physical integrity is a fundamental right that takes on special importance within a prison setting. While searches are essential, they must be strictly governed by standards that all officers must fully understand and cohesively apply.

Comments from the Ministère de la Sécurité publique :

“Correctional services at the end of 2007 updated their basic 20-day training program for new Correctional services officers.

In terms of training with regard to physical interventions, it notably includes a section on the use of force and physical interventions with detainees in a crisis situation, as well as a section on mental health and suicide.

It bears noting that a Correctional services' human resources development plan will henceforth be established for a two-year period.

For the past several years, moreover, Correctional services have been striving to improve their security practices, adopting a security philosophy and policy statement to guide their actions. A policy on the use of force has been distributed and employees at all detention facilities have been trained in the use of the inflammatory agent - pepper spray”.

## Health services

### Interrupted methadone maintenance therapy

Year after year, the Québec Ombudsman finds itself decrying cases of treatment being interrupted subsequent to a transfer of facility. Because medical information is not transmitted in a timely fashion prior to or following a transfer, detainees are deprived of necessary treatment and medication. Cases of methadone maintenance treatments being interrupted subsequent to a transfer or a detainee's admission to a facility are, among others, frequent. The withdrawal involved in these instances entails immense and very real physical and psychological pain.

These issues cannot be simply or quickly resolved. Health professionals, in fact, must abide by the guidelines prescribed by the Collège des médecins and the Ordre des pharmaciens when administering methadone programs.



In light of these facts, the Québec Ombudsman recommends that Correctional services review the issue of interrupting methadone therapy and consult the Collège des médecins and the Ordre des pharmaciens to develop practices aimed at simplifying the application of existing standards or adapting these standards so that they are more suitable to the prison environment. The Québec Ombudsman will monitor developments in this regard over the coming year.

Comments from the Ministère de la Sécurité publique :

“ The issue of methadone maintenance treatments will be addressed within the framework of the Modernisation des soins de santé dans les établissements de détention.

We plan to soon apprise our partners from the Ministère de la Santé et des Services sociaux of this issue, with the aim of identifying and implementing solutions to this problem, notably in conjunction with the Collège des médecins and Ordre des pharmaciens.”

### **Responses to requests for services or information submitted to the Québec facility's health centre**

Detainees are usually forbidden from directly requesting health services in a detention facility, and must first submit their request to Correctional services officers. Given that these requests must be in writing, health centres must subsequently assess the criticality of granting a medical appointment, setting up an appointment with a nurse, or providing requested information on the basis of “ memos ” drafted by detainees.

When human resources are insufficient or the number of requests swells, health centres have difficulty providing written responses to all of the requests received. Failing to receive a response, detainees repeat their requests ad nauseam, turn to the internal system for handling complaints and, as a last resort, contact the Québec Ombudsman. A detainee who receives no response may well think that his memo was never received or processed by the appropriate centre.

In a few facilities, the number of written requests has increased significantly, particularly when compared to the available resources. Health centres can thus not send written responses, justly opting to focus their efforts on the essential and critical health services they must provide.

The Québec Ombudsman intervened with these facilities to ensure that during periods of crises or whenever they needed to personally prioritize treatment instead of written responses, an automatic acknowledgement of receipt would be sent to detainees and an explanatory memo posted up in the sectors.

With such a process, detainees would at a minimum be sure that their request had been properly received by the health centre. It bears noting that this practice is limited to requests for services. It does not apply to requests for information, which must be responded to in writing unless a meeting is set up.

Lastly, this suggestion is a mere stopgap measure to counter a lack of resources, and the Québec Ombudsman will closely monitor the situation to ensure that these practices do not become current.

## **Detainees at work and Funds to Support Social Rehabilitation**

In addition to reducing stress and countering idleness, working while detained brings numerous other long-term benefits, namely: the development of personal accountability as regards employer expectations, greater self-confidence, the discovery of interests, and the honing of valuable job market skills. With such a perspective, it can even prove a trigger to employability initiatives. Viewed in this manner, the personal development of a detainee who voluntarily chooses to work can be much healthier than that of a person who is simply kept in a restricted area 23 hours a day.

In this regard, access to work and to cultural and recreational activities was *acknowledged in the United Nations' minimum standards for the treatment of detainees*. Under these rules, prisons, while dedicated to confinement, must develop and promote mechanisms to maintain the physical and mental health of detainees and pave the way for their return to the community. These two aspects of prison stay are transposed to the Québec correctional system in the form of the Funds to Support Social Rehabilitation.

## **Funds and Correctional services : complementary missions**

Created by law and instituted in each Québec detention facility, Local Funds act in the capacity of a legal person. They report to a board of directors and enjoy holdings that are their own. Their mission, complementing that of the Services correctionnels du Québec, revolves around the social rehabilitation of detainees. The Funds supply work activities and recreational services to all detainees. These are at times therapeutic. Similar to non-profit organizations, the primary goal of Funds is not the achieving of profits or growth. The revenue generated by the work of detainees makes it possible to allocate salaries, a percentage of which will be remitted to individuals once they are released only.

Income earned also enables Local Funds to purchase the materials necessary to their production activities. These expenses are thus never the responsibility of the Ministère de la Sécurité publique. Thus, each Fund covers the costs of all of its activities and other services included in its yearly program. In 2006, the Funds together dedicated a total of \$ 1.7 million to these activities and services alone throughout the Québec correctional system.

## **An economic actor in its community**

For example, the Fund for the facility in Québec hires on its own around fifty employees to support the work performed by detainees, thereby significantly contributing to job creation in its community.

To help in the manufacturing of goods funds can call upon local small businesses. Such subcontracting also has a certain impact on a region's economic activity.

## “Public” clients for support Funds

To perform their mandate, Funds are allowed, under the Act respecting the Québec correctional system (R.S.Q., c. S-40.1) to “enter into any contract to enable an offender to participate in activities inside or outside the correctional facility” (section 87). Local Funds exist to provide the greatest possible number of people an opportunity to work. They do this by obtaining contracts, in various economic sectors, that can be executed by detainees with due consideration given to certain security restrictions.

The Regulation respecting supply contracts, construction contracts and service contracts of government departments and public agencies incorporates an option whereby government departments and agencies, much as they do with non-profit organizations, can award a contract to a Fund without going to tender and without the authorization of the Conseil du trésor. This increased flexibility appears indicative of a willingness to promote contractual relationships with the Funds to Support Social Rehabilitation.

A large number of Government of Québec departments and agencies are currently clients of the Funds to Support Social Rehabilitation. In fact, Government of Québec contracts can at times account for up to 75% of a Fund’s revenue. Upholding and supporting these contractual relations seems fundamental to the success of the Funds’ mission as regards detention.

## Setting socially and economically acceptable parameters

There do not appear to be any parameters for private enterprise contracts for which Local Funds would like to submit proposals. Establishing such parameters could help avoid situations considered unfair by companies operating in the same industries as those exploited by the Local Funds, while also enabling the latter to retain their autonomy as regards the search for contracts.

## 2007-2008 recommendations

### Recommendation 1 :

Given that social rehabilitation is central to the Act respecting the Québec correctional system and as such, inherent to Correctional services’ mandates and responsibilities ;

Given that the objective involving the social integration of offenders is closely linked to other agencies’ and departments’ missions ;

Given that existing efforts to develop programs in this area do not seem to be coordinated, nor developed according to objectives and priorities established in a global plan ;

Given the importance of cooperation among all of the departments and agencies involved in the social rehabilitation of detainees ;

THE QUÉBEC OMBUDSMAN RECOMMENDS :

That the Government of Québec oversee the development of an action plan, no later than December 2008, for the creation and management of social integration services.

**Recommendation 2:**

Given that administrative segregation, disciplinary or administrative seclusion, and disciplinary confinement constitute a serious infringement of the residual liberty of the incarcerated person;

Given that the information contained in the files leading to these measures is not always complete and varies greatly from one detention facility to another;

THE QUÉBEC OMBUDSMAN RECOMMENDS :

That the Ministère de la Sécurité publique introduce a mandatory registry for the use of isolation or seclusion cells at all detention facilities.

**Recommendation 3:**

Given that requests for health services cannot be classified as mere administrative requests;

Given the often confidential nature of the information transmitted in requests for health services;

THE QUÉBEC OMBUDSMAN RECOMMENDS :

That the Ministère de la Sécurité publique evaluate in the near future options to make changes to the conditions governing written requests for health services.

That it notify the Québec Ombudsman of the results of this review.

#### **Recommendation 4 :**

Given that working while detained has numerous positive impacts on detainees and contributes to their social rehabilitation ;

Given that the mission of the Local Funds to Support Social Rehabilitation created under the law and implemented in all Québec detention facilities, complements that of Correctional services ;

Given that these Local Funds are economic drivers for communities, being authorized to enter into agreements with Government of Québec departments and agencies, among others ;

Given that upholding and supporting these contractual relations seems fundamental to achieving their mission ;

#### **THE QUÉBEC OMBUDSMAN RECOMMENDS :**

That the Ministère de la Sécurité publique cooperate with the Local Funds to Support Social Rehabilitation as well as the other actors involved, including private industry representatives, to develop a framework and rules to assist Local Funds in reaching agreements, and this while giving due consideration to the realities of private enterprise.

That it provide the Québec Ombudsman with a firm schedule for the development of these rules and their provisions.

## **Comments from the department**

The following statement from the Ministère de la Sécurité publique was issued by its Deputy Minister :

As regards recommendation concerning a log :

“ Correctional services will abide by this recommendation and develop a mechanism for installing a log in all detention facilities by March 31, 2009.”

As regards recommendation concerning the conditions of written requests :

Correctional services undertake to set up by the fall of 2008 conditions regarding written requests for health services. We also commit to developing a method that meets the needs of detainees while taking into consideration the current situation in detention facilities.

As for the recommendation regarding the development of rules to govern the reaching of agreements by the local Funds to Support Social Reintegration :

“The department will create a working committee in accordance with the Québec Ombudsman’s recommendations whose mandate will be to cooperate with the Local Funds to Support Social Reintegration so as to develop such rules. The department will of course apprise the Québec Ombudsman of the committee’s activities and the resulting implementation schedule”.

## Parliamentary watch

Since the entry into force of the Act respecting the Québec correctional system, the Ministère de la Sécurité publique has adopted a certain number of administrative guidelines and directives. The Québec Ombudsman issued recommendations with regard to various draft directives submitted by the Direction générale des services correctionnels. Here are a few examples of recommendations that led to initial draft directives being changed :

### Guideline on discipline

As part of its review of administrative standards regarding discipline, Correctional services asked the Québec Ombudsman to comment. Here are a few elements that gave rise to changes :

- Refraining from correcting errors in the form and substance of disciplinary reports when such changes could potentially impact the fairness of the disciplinary process.
- Allowing, in certain circumstances, discipline committees to postpone hearings on files so that detainees can adequately prepare a defence.
- Specifically indicating that once a detainee’s guilt is established by the discipline committee, the detainee shall have an opportunity to give a statement with regard to the sanction that could be imposed.
- Setting a ceiling for the total number of days for which a sanction can apply to reclusion or solitary confinement when the committee elects to apply a suspended sanction in addition to a second sanction.

### System for handling complaints

Subsequent to the Québec Ombudsman’s comments, the guideline regarding the system for handling complaints was amended to specify that a complaint form had to be provided to detainees who so desired, even when the complaint involved grounds deemed a priori inadmissible by the facility’s management.

Similarly, with regard to closing complaint files following a transfer, the Ministère de la Sécurité publique moved on our recommendation to provide detainees with a written notification, upon request, that their complaint file had been closed as a result of their departure.

The department also accepted the Québec Ombudsman's recommendation vis-à-vis clarification of a facility's follow-up of collective complaints by detainees.

## Visiting rights

The Regulation under the Act respecting the Québec correctional system amended several rules governing visits to detainees. Correctional services accepted a number of the Québec Ombudsman's comments regarding this directive, notably :

- Authorizing straightaway more than one visitor to a detainee so requesting it and when the facility's resources so allow it.
- Providing detainees with the option of adding the name of a spouse to the visitors' list while incarcerated. This would notably enable detainees who did not wish to see their spouse at the time they were incarcerated to change their mind at a later date.
- Clarifying the notion of " inappropriate dress code " as grounds for refusing access to a visitor.

## Regimen

In line with the Québec Ombudsman's recommendations, the draft guide for establishing regimens was modified by the Direction générale des services correctionnels to notably :

- Provide detainees the specific terms for sending written communications to the Québec Ombudsman.
- Specify the types of persons authorized to visit detainees and the conditions governing such authorizations.
- Notify detainees that they can be represented by an attorney for certain types of disciplinary hearings.
- Add information on conditions regarding access to healthcare.
- Add information on the system for handling complaints.
- Define the personal hygiene products provided by the facility upon a detainee's arrival.