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Special Report by the Québec Ombudsman

Detention conditions, administration of justice
and crime prevention in Nunavik

Québec City, February 18, 2016

Mission of the Québec Ombudsman

The Québec Ombudsman ensures that the rights of citizens are upheld by intervening with Québec government departments and agencies and the various bodies within the health and social services network to rectify situations that are prejudicial to a person or a group of people. Appointed by the elected members of all political parties and reporting to the National Assembly, the Québec Ombudsman acts independently and impartially, whether an intervention is undertaken in response to a complaint or a series of complaints or on the institution's own initiative.

Pursuant to the powers conferred upon it, it can propose amendments to acts and regulations and changes to directives and administrative policies with a view to improving them in the best interest of the people concerned.

Respect for users and their rights and prevention of harm are at the core of the Québec Ombudsman's mission. Its preventive role is exercised in particular through the systemic analysis of situations that cause harm to a significant number of citizens.

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When the masculine form is used, it is intended to be gender-inclusive.

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Summary

The Québec Ombudsman acts to ensure that the residual rights of all inmates under the responsibility of the Government of Québec are upheld. These are people whom the courts have ordered to be detained during legal proceedings (“awaiting trial”) or who have been sentenced to serve fewer than two years (“detainees”).

Following complaints and information received as the Correctional Ombudsman of Québec, the Québec Ombudsman conducted an investigation into the detention conditions for inmates in Nunavik, a territory of Québec located north of the 55th parallel, with a population of about 11,000 (the Nunavimmiut). It therefore visited three villages — Puvirnituq, Akulivik and Kuujuaq — in April 2015.

The investigation was aimed at determining whether detention conditions for Nunavik inmates are reasonable and comply with established standards and requirements. The investigation then went on to assess detention conditions for Nunavik's Inuit in correctional facilities in Southern Québec. The Québec Ombudsman's observations and recommendations regarding detention and correctional services are presented in Chapter 1 of this report.

In Nunavik, the Québec Ombudsman quickly noted that correctional issues are just one part of the systemic shortcomings in the administration of justice. Chapter 2 of this report is therefore dedicated to the human and financial impacts of the multiple transfers Nunavimmiut offenders experience because there is no correctional facility in Nunavik.

Chapter 3 addresses the over-representation of Inuit in Québec's judicial and correctional systems, along with the mismatch between the justice system and Inuit reality. It also proposes solutions for reducing crime and preventing court cases — and, thereby, reducing incarceration.

Inuit and the Québec correctional system

After committing an offence, people arrested in Nunavik are temporarily detained either in a Kativik Regional Police Force station administered by the Kativik Regional Government, or in Nunavik holding cells under the responsibility of the Ministère de la Sécurité publique. This is where they stay until their release, if applicable, or until they are transferred to a Southern correctional facility in cases of preventive custody while awaiting their court appearance and trial.

There is no correctional facility in Nunavik. Preventive custody therefore takes place in correctional facilities in Southern Québec, under the responsibility of the Direction générale des services correctionnels of the Ministère de la Sécurité publique. When there is a session of the Itinerant Court in a Nunavik village, it is also the Direction générale des services correctionnels that is responsible for custodial activities in Nunavik's police station cells (or holding cells) and for escorting offenders to the Itinerant Court. The administration of justice in Nunavik is carried out through Itinerant Court with a Court of Québec judge presiding. This Itinerant Court serves eight of the fourteen Nunavik communities. Judges of the Abitibi judicial district — of which Nunavik is part — travel to hear cases approximately 45 weeks out of the year, based on a fixed calendar. Therefore, individuals in preventive custody are once again temporarily detained in Nunavik in the days preceding trial.

To ensure that the residual rights of Nunavik inmates are upheld and that inmates receive basic services during their incarceration, the Sivunirmut Agreement provides for shared responsibilities between the Direction générale des services correctionnels and the Kativik

Regional Government governing Nunavik (and for which the Québec Ombudsman has no jurisdiction) for the custody of offenders during Itinerant Court visits. Under the terms of this agreement, since 2005, the Direction générale des services correctionnels has been required to provide the Kativik Regional Government with an annual report to ensure that detention cells in Nunavik meet requirements and are safe. However, it was only following a request from the Québec Ombudsman in 2013 that a first report was produced. The brevity of this report, the lack of objective information on Nunavik inmates and the absence of concrete solutions to pressing issues on detention conditions all confirmed the importance of the investigation that led to this report from the Québec Ombudsman.

In Nunavik, detention conditions are below even the most basic standards

Once on site, the Québec Ombudsman quickly ascertained that detention conditions in Nunavik are below current standards and do not always respect the fundamental rights of inmates — particularly their right to human dignity.

Detention conditions are particularly difficult in Puvirnituaq, situated on the eastern shore of Hudson Bay. In the weeks of Itinerant Court sessions, occupancy in police station cells is much too high: during peak periods, a cell intended to hold two inmates might hold seven individuals. People with incompatible profiles (e.g. those brought in from Amos for their trial and intoxicated individuals) are in close proximity due to a shortage of space.

Additionally, in Puvirnituaq, cells are generally unsanitary and equipment is obsolete, defective or insufficient. Often unusable, sanitation facilities do not offer any privacy, and access to water is limited. Janitorial and laundry services are often lacking or non-existent. According to the normative framework, the Kativik Regional Government is responsible for providing laundry and janitorial services for holding cells (Kuujuaq, Kuujuarapik and Puvirnituaq) and for all police station cells in Nunavik. In the 2013 and 2014 annual reports provided to the Kativik Regional Government, the Direction générale des services correctionnels determined that the latter had complied with this obligation. The Québec Ombudsman does not share this opinion and considers that a designated person must be tasked to see to it that these obligations are fulfilled in order to ensure at least a minimum level of sanitation.

The Québec Ombudsman also noted that inmates in Puvirnituaq and some other villages are confined to their cells 24 hours a day — a unique situation in Québec that is in violation of minimum standards. They do not have access to an outdoor courtyard or a common area.

Despite attempts by the Direction générale des services correctionnels to meet its legal obligations, it is clear that detention conditions in Nunavik are currently unacceptable.

In light of its observations, the Québec Ombudsman considers that cells need to be added in Puvirnituaq in the short term, given the immoderate occupancy rate. In 2014-2015, the Itinerant Court spent 14 weeks there, a total of 68 days (excluding youth protection sessions). There is also incarceration in Puvirnituaq during court appearances in small villages in Hudson Bay, such as Salluit, which do not have facilities to hold inmates overnight. The short duration of stays in these facilities does not justify current detention conditions in Nunavik. People incarcerated there should not have to fear for their health and safety during their stay.

The Québec Ombudsman has no jurisdiction regarding the Kativik Regional Government, given its special status. However, the Québec Ombudsman must ensure that the Direction générale des services correctionnels of the Ministère de la Sécurité publique provides for human detention conditions in compliance with standards and the law, even though the

Direction générale des services correctionnels has delegated certain responsibilities to the Kativik Regional Government through the Sivunirmut Agreement.

In this respect, the Québec Ombudsman considers that the responsibilities shared between Ministère de la Sécurité publique correctional officers and the Kativik Regional Police Force officers must be clarified, as a misunderstanding of the roles has prejudicial effects on inmates. Clarifying — or redefining — the responsibilities for each, taking current detention conditions into account, along with creating a more active partnership between the Ministère de la Sécurité publique and the Kativik Regional Government, are essential in ensuring that the residual rights of inmates are upheld.

Detention conditions not adapted to the reality of Inuit in Southern Québec correctional facilities

When a judge orders the incarceration of a Nunavimmiut, he or she is incarcerated in one of 20 correctional facilities south of the 49th parallel — more than 1,000 km from where he or she lives. Inuit offenders are thus deprived of family and community support, which hinders their social reintegration after imprisonment. The language barrier and lack of information available in Inuktitut are also problems, making it difficult for inmates to assert their most basic rights.

For all aspects of Inuit detention to meet established standards and requirements, be reasonable and uphold residual rights, both in Northern and Southern Québec, the Québec Ombudsman has made **nineteen recommendations in Chapter 1 of this report**. These recommendations pertain to:

- ▶ bringing infrastructure and basic equipment up to standard
- ▶ access to laundry and janitorial services
- ▶ the quality of meals
- ▶ access to a courtyard
- ▶ the management of personal belongings
- ▶ surveillance of the premises
- ▶ the complaints examination system
- ▶ telephone calls
- ▶ anti-suicide equipment
- ▶ safe custody in which residual rights are upheld
- ▶ limiting language barriers.

They aim to significantly improve — at reasonable cost — detention conditions for Nunavimmiut. In all circumstances and regardless of where they are detained, Nunavimmiut should be treated fairly, and detention conditions must immediately be upgraded to a level that is acceptable in a lawful society like Québec.

The administration of justice in Nunavik

From arrest to incarceration: Trying times for Nunavimmiut

When someone is arrested in Nunavik and needs to be detained in a Southern correctional facility during the legal proceedings, various transfer scenarios are possible, as detailed in Chapter 2.

Generally, shortly after being arrested, offenders are taken by police officers to the justice of the peace. In Nunavik, given the distance, they make a first remote appearance, usually by telephone. If, during the court appearance, the criminal and penal prosecuting attorney has no objection to their release, offenders are released — with or without conditions — and the next phases of the judicial process occur during upcoming Itinerant Court sessions in their village or region. If, however, the prosecutor objects to their release, offenders are placed under preventive custody and a remand warrant is issued by the judge or justice of the peace. Remand warrants summon police officers to turn over the accused to the director of a correctional facility or its representatives — correctional officers — who must ensure that the accused is present for his or her bail hearing.

In practice, this means that many Inuit offenders need to travel to the Amos courthouse for their bail hearings, as this is where some of the judicial services are offered for Nunavik. The distance and difficult travel conditions mean that up to fourteen days may elapse between a person's arrest in Nunavik and arrival in Abitibi for the bail hearing. If the Itinerant Court is not in the village at the time of the arrest, Kativik Regional Police Force officers escort the offender to Montréal by plane. The shortage of police officers available for carrying out transfers, difficult weather conditions and several layovers often cause major delays. On arriving in Montréal, the accused is turned over to correctional officers and taken to the Amos correctional facility by prison van for the bail hearing, after spending a few hours to a few days in Saint-Jérôme.

If, after the bail hearing, the judge decides that the accused must remain in detention, preventive custody generally takes place at the Amos correctional facility. However, the person awaiting trial returns North with the Itinerant Court for the trial. In 2014-2015, 369 offenders were once again flown north to appear before the Itinerant Court.

Obviously, the human and financial impacts associated with transferring offenders are significant, especially when, following a bail hearing, the accused is released and travels back home at the cost of the public purse.

Major delays are also associated with this way of proceeding, particularly due to the lengthening of preventive custody caused by transfers south. The average stay of Inuit in preventive custody has increased by about eight days in five years, and is about 18 days longer than for the rest of the prison population.

Management costs associated with transfers

Excluding costs that the Direction générale des services correctionnels is unable to quantify (such as the cost of inter-facility transfers), annual expenses related to inmate transportation and incarceration represented at least \$3,754,166 in 2014-2015. If the annual cost of having the Kativik Regional Police Force transport and detain offenders awaiting trial is included, these annual expenses add up to \$6,556,604.

These costs will increase in the coming years, as the incarceration and crime rates in Nunavik continue to grow. The number of Court cases is on the rise, increasing by 239% between 2002 and 2012. To meet demand, the Court added sessions, and the number of weeks in the Court calendar went from 28 to 47 between 2005-2006 and 2014-2015.

Travel costs for the Itinerant Court are also very high. For instance, a trip to Puvirnituaq may cost approximately \$35,000, and to Salluit, between \$60,000 and \$70,000.

Pending solutions: Creation of an air link between Abitibi-Témiscamingue and Nunavik, grouping inmates in the South and increased use of videoconferencing in the judicial process

The Québec Ombudsman deplors that the implementation of an air link between Abitibi-Témiscamingue (Amos) and Nunavik — advocated by the Direction générale des services correctionnels and its partners for several years — has yet to materialize. The project consists of creating an aerial connection between the two regions for times when the Itinerant Court is not sitting. This would allow correctional officers and Kativik Regional Police Force officers to significantly reduce the costs associated with transfers, along with safety risks. This solution would also prevent Inuit from having to transit through Montréal, then Saint-Jérôme, just for a bail hearing at the Amos courthouse.

In allowing direct trips between Nunavik and Amos, the future air link would also make it easier for family and relatives to visit, and there would be no need to go near downtown Montréal, where there is an increased risk of re-offending and homelessness.

Having all Inuit in the correctional system incarcerated in the new correctional facility in Amos — set to open in the fall of 2016 — would optimize the air link, bringing those released each week back North directly rather than having them transit through Montréal. Grouping Inuit inmates could also contribute to their social reintegration by concentrating the correctional network's expertise regarding its Inuit clientele. Finally, such grouping, along with the new air link, would allow incarcerated Nunavimmiut to be closer to their family.

Another solution for significantly reducing the need to transfer detainees and those awaiting trial to Southern Québec would be to increase the use of videoconferencing as part of legal proceedings. However, implementation of this solution is slow to happen.

With the exception of Kuujuaq, most villages do not have the equipment, technology or qualified staff needed for effective appearances via videoconferencing. That is why, when the criminal and penal prosecuting attorney objects to an offender's release following a telephone appearance, the accused is transferred to Abitibi-Témiscamingue for the bail hearing.

The Québec Ombudsman considers that additional efforts are needed to increase the use of videoconferencing or any other adapted technology, thus ensuring that pre-trial procedures, including bail hearings, are — barring some exceptions — done remotely, free of unnecessary transfers. This would allow the Itinerant Court to focus on trials, and the Kativik Regional Police Force to optimize the use of its resources in order to serve the Nunavik communities by not having to escort inmates to Southern Québec.

In Chapter 2 of this report, the Québec Ombudsman makes four recommendations so that the Ministère de la Sécurité publique and the Ministère de la Justice identify alternatives to the multiple transfers experienced by Nunavimmiut offenders. Implementing these recommendations would help reduce injurious human effects and generate substantial savings. The main solutions proposed include the implementation of an air link, grouping Inuit in a single correctional facility, and the increased use and sharing of technological resources for remote court appearances.

Crime prevention

Although the purpose of the investigation in Nunavik was to observe detention conditions and make sure they are reasonable and respectful of inmates' residual rights, the Québec Ombudsman quickly noted that incarceration problems stemmed from a much broader issue.

Over-representation of Inuit in Québec's judicial and correctional systems

One obvious finding: there is an over-representation of Inuit in the judicial and correctional systems. Over the past few years, this over-representation has continued to grow. In 2015, the number of Inuit who spent time in a correctional facility increased by 64% compared to 2010. Furthermore, there is nothing to indicate that the situation will improve in the coming years. The crime rate in Nunavik is ever on the rise, whereas it is dropping for Québec as a whole.

The justice system's mismatch with the reality of Nunavimmiut and the scarcity of crime prevention resources — particularly those for treating addiction in the territory — contribute to the over-representation of Nunavik's Inuit in the judicial system and correctional facilities.

This problem is nothing new. As early as 1993, the Inuit Justice Task Force denounced the over-criminalization of Inuit and the misfit between the justice system and Inuit reality.

The lack of concerted action from the authorities involved — and especially the Ministère de la Sécurité publique, the Ministère de la Justice, and local parties (the Kativik Regional Government and the Makivik Corporation) — exacerbates Inuit social problems and, as a result, perpetuates stereotypes about Inuit. Because court action and incarceration do not reduce social problems, it is imperative to go beyond justice system reforms and to implement changes that take the reality of these communities into consideration. To do this, the authorities concerned must take concerted action to promote support for social reintegration and measures to keep cases out of the court. Chapter 3 focuses on these various issues.

It has become obvious that the justice system alone is not enough to lower the crime rate in Nunavik. There are insufficient resources to adequately resolve the complex mix of social issues affecting Nunavimmiut, which are at the root of most cases handled by the Itinerant Court. During the investigation it conducted, the Québec Ombudsman noted that Inuit found guilty and transferred South to serve their sentences do not always grasp the intricacies of their case or of the legalese used. The relative lack of attempt to make legal principles understandable to laypeople was striking during the Itinerant Court sittings that delegates of the Québec Ombudsman attended. Not to mention that indictments and other legal documents are not translated into Inuktitut.

Without minimizing the efforts made to adapt the administration of justice to the reality and needs of the North, particularly by the Ministère de la Justice and the judiciary, the Québec Ombudsman considers that the search for solutions to the issue of over-representation of Nunavimmiut in Québec's justice system and, consequently, in the correctional system, should focus on the root of the problem by zeroing in on the origin of criminality and on crime prevention.

Concerted efforts for social progress in Nunavik

Focusing on prevention and social reintegration

Because there are many Nunavimmiut with supervised probation and suspended prison sentences, and considering that many are serving their sentence in their village, the Québec Ombudsman considers that working on the issues behind delinquent behaviours and on developing prevention and social reintegration programs adapted to the needs of each of the fourteen communities is essential.

Although studies show that Nunavimmiut offences are often linked to alcohol and drug abuse, the resources dedicated to treating alcoholism and substance abuse in Nunavik are scanty. Furthermore, Inuit offenders have limited access to social reintegration support services, both when they are released from the correctional facility and when they return to their village. However, such services are essential in curbing the increase in complex social problems affecting some Nunavimmiut.

The current situation, in which already there is limited access to addiction treatment resources (which foster crime prevention and social reintegration), is damaging. After serving a sentence in a Southern correctional facility, Nunavimmiut return to their communities and find themselves amid the same conditions that led to their criminalization, including alcohol and drug abuse by the people around them or in overcrowded apartments, which in turn creates a risk of re-offending. People with a criminal record also have a difficult time finding work.

In 2007, the Government of Québec, Makivik Corporation and Kativik Regional Government agreed to create the Safer Communities Program ("Ungaluk Program") instead of building a correctional facility in Nunavik. The sums invested in this program (\$10 million per year, indexed over a period of 22 years, for a total of \$315 million) were to be used to create programs to prevent and fight crime, promote the health and safety of Nunavik communities, help crime victims and improve correctional services for Inuit. However, the Québec Ombudsman considers that participation in the Ungaluk Program's expert committee by government and Inuit community players is very modest at this time. For this reason, it recommends thorough planning and concerted action in the short-term in order to achieve the priorities set in establishing this program and, subsequently, to ensure positive outcomes in terms of crime prevention in Nunavik.

Strong justice committees and proactive support for initiatives aimed at preventing court action

The development of justice system alternatives is essential. This could include the strengthening of justice committees, improved access to psychosocial, rehabilitation and addiction treatment facilities, adapted reintegration programs and the implementation of a drug court program in keeping with the context in Nunavik, for people struggling with addiction.

The Québec Ombudsman feels that if the members of the justice committee were to benefit from support and funding to carry out their tasks effectively, they could act as resources in every community, thus improving Nunavimmiut understanding of and trust in justice and its administration on their territory. They could also offer support when detainees are released from correctional facilities.

The same is true for other alternative justice and social regulation initiatives, such as the Saqijjuq Project, which is funded by the Ungaluk Program. Targeting the repercussions of drug and alcohol abuse by mobilizing communities, Inuit organizations, and the government departments and agencies concerned, this initiative was given the go-ahead by the Government of Québec. However, the Québec Ombudsman notes the lack of

decisions and of appropriate follow up. The proactive and cohesive participation of all partners, and the designation of a person entrusted with developing and implementing a common action plan to prevent and reduce crime and court cases in Nunavik, are essential for the success of the initiatives deemed valid.

The purpose of the seven recommendations in Chapter 3 is to mobilize partners to work together intensively toward preventing and possibly reducing the over-representation of Nunavimmiut in the justice and correctional systems. The Québec Ombudsman hopes that its external and independent perspective will contribute to the deliberations and cooperation of the parties and help to identify and implement concrete, effective solutions and to resolve complex — yet solvable — issues. Finally, to ensure positive results in the future, the Québec Ombudsman asks the Ministère de la Sécurité publique and the Ministère de la Justice to include an annual report on court-case prevention and social reintegration in Nunavik in their accountability report to the National Assembly.

Intervention by the Québec Ombudsman

- 1 The Direction générale des services correctionnels of the Ministère de la Sécurité publique is responsible for the custody of offenders who have been sentenced to serve less than two years, known as “detainees”, and those whom the courts have ordered to be detained during legal proceedings, known as “awaiting trial.”¹
- 2 As the Correctional Ombudsman of Québec, the Québec Ombudsman acts to ensure that the residual rights of all inmates in correctional facilities and courthouse holding cells are upheld.²
- 3 During its visit of Québec correctional facilities, and following complaints and information it received, the Québec Ombudsman conducted an investigation into the detention conditions for inmates in Nunavik, a territory of Québec located north of the 55th parallel, with a population of about 11,000.³ The issues reported included overcrowding, lack of privacy and unsanitary conditions at the detention facilities due to high cell occupancy.
- 4 In accordance with the 2005 Sivunirmut Agreement,⁴ the Direction générale des services correctionnels is required to provide the Kativik Regional Government — which governs Nunavik⁵ — with a written report at least once a year.⁶ In this report, the Direction must present its observations on compliance and safety aspects of Kativik detention cells, along with recommendations. In September 2012, the Québec Ombudsman noticed that the Direction générale des services correctionnels had never issued such a report.
- 5 In light of this situation, the Québec Ombudsman demanded that the Ministère de la Sécurité publique issue a report immediately. This issue had been raised in the Québec Ombudsman's *2012-2013 Annual Report*.⁷ As a result, in December 2013, the Direction générale des services correctionnels tabled a first report concerning the compliance and safety of detention cells in this region.⁸ The Québec Ombudsman was concerned with the brevity of this report,⁹ which lacked objective information on Nunavik inmates and concrete solutions to pressing issues on detention conditions, such as lack of privacy and mixed clientele. This was the backdrop for this investigation. It should be noted that the Québec Ombudsman has jurisdiction regarding the Ministère de la Sécurité publique, but not with regard to the Kativik Regional Government, which has special status.

¹ The existing infrastructure includes 20 correctional facilities and more than 40 courthouse holding cells. The federal government is in charge of detaining offenders who received a sentence of two years or more. Close to 44,000 citizens were admitted to Québec's correctional system in 2014-2015; 54% of them had been detained following a court sentence (detainees), whereas 46% had been awaiting trial or sentencing.

² The Québec Ombudsman has received an annual average of 4,150 complaints from inmates in the last five years.

³ For example, during a visit of the Amos correctional facility, staff members who had escorted inmates to their hearings made the Québec Ombudsman aware of the detention conditions for offenders in Nunavik. They deemed the detention conditions to be inappropriate, particularly deploring the fact that inmates were being crowded into dirty holding cells and police station cells.

⁴ *SECRETARIAT AUX AFFAIRES AUTOCHTONES, MINISTÈRE DU CONSEIL EXÉCUTIF, Agreement concerning Block Funding for the Kativik Regional Government (Sivunirmut Agreement) Appendix B - Mandates and Obligations of the KRG, Section B.11 Logistic support for guard services*, Consolidated administrative version of September 2, 2015, [[electronic resource](#)].

⁵ For more information on the Kativik Regional Government, please read the Background section of this report.

⁶ See note 12 of this report to understand the differences between Kativik and Nunavik.

⁷ *PROTECTEUR DU CITOYEN, 2012-2013 Annual Report*, Québec, 2013, p. 71.

⁸ *DIRECTION GÉNÉRALE DES SERVICES CORRECTIONNELS, MINISTÈRE DE LA SÉCURITÉ PUBLIQUE, RÉSEAU CORRECTIONNEL OUEST DU QUÉBEC, Rapport annuel de la Direction générale des services correctionnels du Québec à l'Administration régionale Kativik concernant le point B.11 de l'entente de Sivunirmut visant le soutien logistique aux activités de gardiennage sur le territoire de la région Kativik*, Québec, 2013.

⁹ The two-page document contains general observations that are somewhat related to the conditions under which the inmates are detained.

- 6 The purpose of the investigation by the Québec Ombudsman's was to ensure the legality and reasonable nature of the detention conditions of Nunavimmiut incarcerated in Northern Québec. In order to have a full picture of the situation, two Québec Ombudsman delegates visited three Nunavik villages (Puvirnituq, Akulivik and Kuujuaq) in April 2015 to observe the detention conditions on site.¹⁰
- 7 This trip to Nunavik also aimed at making the population and local authorities aware of the Québec Ombudsman's role and mission. The intervention helped raise awareness of the services it offers and to forge ties with certain local and regional organizations that provide services to citizens in these remote communities.
- 8 The first chapter of this report presents the Québec Ombudsman's observations regarding detention conditions for Nunavik inmates. Detention conditions for Inuit in Southern Québec correctional facilities¹¹ are also discussed. The meetings with Nunavimmiut inmates and local authorities provided a greater understanding of certain issues they face.
- 9 Although the main purpose of the investigation in Nunavik was to observe detention conditions for inmates, the Québec Ombudsman quickly noted that this issue was only one part of the systemic shortcomings linked to the administration of justice. Chapter 2 is therefore dedicated to the human and financial impact of the multiple transfers Nunavimmiut offenders experience given the absence of a correctional facility in Nunavik. Finally, Chapter 3 addresses the over-representation of Inuit in Québec's judicial and correctional systems, along with the mismatch between the justice system and Nunavimmiut reality. It also proposes solutions for reducing crime and preventing court cases — thereby reducing incarceration — for Nunavimmiut. These include first and foremost the development of crime prevention and social reintegration programs — including programs to treat addiction — and alternatives adapted to the traditions and needs of this community.
- 10 The purpose of the Québec Ombudsman's recommendations is to ensure that all aspects of Inuit detention meet established standards and requirements and uphold these inmates' residual rights. They also aim to encourage the implementation of solutions to make the administration of justice more effective by reducing the over-representation of Inuit in the justice and correctional systems.

¹⁰ Le Protecteur du citoyen visited the premises from April 22 to May 2, 2015. A stop was scheduled in Salluit, but was cancelled due to bad weather.

¹¹ "Detention in the South" is a widely used expression referring to incarceration in correctional facilities across Québec.

Background

Nunavik, an integral part of Québec



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11 Nunavik includes the Québec region of Kativik, which spans about 500,000 km² north of the 55th parallel.¹² Its residents — Nunavimmiut — live in 14 coastal communities, for which the populations range from 200 to 2,500 inhabitants, for a total population of some

¹² Nunavik includes the Québec territory located north of the 55th parallel and belonging to the land included in the Kativik Regional Government, which consists of 14 Northern villages, 14 Inuit reserve lands, 1 Naskapi land, and two unorganized territories that cover the remaining Kativik Regional Government territory. The Cree Village of Whapmagoostui consists of an enclave not belonging to the Kativik Regional Government. See, in this regard: KATIVIK REGIONAL GOVERNMENT, website [[electronic resource](#)].

11,000 residents — about 90% of whom are Inuit.¹³ These communities are divided between Hudson to the northwest¹⁴ and Ungava to the northeast.¹⁵ There are no roads connecting the communities to each other or to the South. Travel between the different communities, as well as to Southern Québec, is done by air and sometimes by boat.

- 12 This territory is governed by the Kativik Regional Government,¹⁶ which was created in 1978 following the signing of the James Bay and Northern Québec Agreement,¹⁷ in order to offer public services to Nunavimmiut and technical assistance to the 14 Northern villages. The Kativik Regional Government is a privileged partner of the Government of Québec and is considered the biggest contributor to regional development projects. With an annual budget of approximately \$220 million deriving from some forty distinctive agreements, including the *Agreement concerning Block Funding for the Kativik Regional Government* (Sivunirmut Agreement),¹⁸ the Kativik Regional Government manages an administrative office, the Kativik Regional Police Force¹⁹ and an airport in each community.

Absence of correctional facilities

- 13 Since there are no correctional facilities in the North,²⁰ when people arrested in Nunavik need to be incarcerated, they are transferred to a correctional facility south of the 55th parallel.²¹
- 14 After committing an offence, people arrested in Nunavik are temporarily detained, as required, either in a Kativik Regional Police Force station administered by the Kativik Regional Government,²² or in holding cells under the responsibility of the Direction générale des services correctionnels du Québec. This is where they remain until their release, if applicable, or, if they have been formally accused, until they are transferred to a Southern Québec correctional facility for preventive custody while awaiting trial.
- 15 Note that, in this case, people in preventive custody in the South eventually return north to stand trial before the Itinerant Court.

¹³ SECRÉTARIAT AUX AFFAIRES AUTOCHTONES, MINISTÈRE DU CONSEIL EXÉCUTIF, *Amérindiens et Inuits. Portrait des nations autochtones du Québec*, 2nd ed., Québec, 2011 [[electronic resource](#)], p. 28.

¹⁴ Akulivik, Inukjuak, Ivujivik, Kuujjuarapik, Puvimituq, Salluit and Umiujaq.

¹⁵ Aupaluk, Kangiqsujuaq, Kangiqsualujuaq, Kangirsuk, Kuujuaq, Quaqtaq and Tasiujaq.

¹⁶ The Kativik Regional Government is a unique administrative structure — the only one of its kind in Québec — that has more power than a regional county municipality (RCM). It has jurisdiction in every area — legal affairs, municipal management and accounting, land use planning and development, engineering and public transportation — except for health care and education. It is different from the Makivik Corporation, which is a so-called “ethnic” organization, in that it advocates on behalf of the Inuit population. Its mandate is to protect the rights, interests and financial compensation arising from the James Bay and Northern Québec Agreement and the Nunavik Inuit Land Claim Agreement.

¹⁷ SECRÉTARIAT AUX AFFAIRES AUTOCHTONES, MINISTÈRE DU CONSEIL EXÉCUTIF, *James Bay and Northern Québec Agreement and Complementary Agreements*, 2th ed., Québec, 2011, [[electronic resource](#)].

¹⁸ SECRÉTARIAT AUX AFFAIRES AUTOCHTONES, Sivunirmut Agreement, *supra*, note 4.

¹⁹ The Kativik Regional Police Force was created in 1996 in line with the intent of the James Bay and Northern Québec Agreement, as a joint effort between the Solicitor General of Canada and the Ministère de la Sécurité publique du Québec. This police force and each of its members were given the mission to keep the peace, maintain order and public safety, prevent crime and find eventual perpetrators, and to ensure that the people of Kativik comply with the law and municipal by laws in force. It is responsible for police stations where inmates are detained.

²⁰ See section 1.2 of this report for more on this topic.

²¹ Mainly the correctional facilities in Amos, Saint-Jérôme, Rivière-des-Prairies, and the women offender institution, Maison Tanguay. It should be noted that, although women were still incarcerated at Maison Tanguay at the time of this report, the Ministère de la Sécurité publique announced, in September 2015, that women offenders incarcerated at Maison Tanguay would be transferred to the Leclerc correctional facility in Laval by February 2016. MINISTÈRE DE LA SÉCURITÉ PUBLIQUE, *Transfert des femmes incarcérées de l'Établissement de détention Maison Tanguay et changement de vocation de l'Établissement de détention Leclerc de Laval*, press release issued on September 24 2015, [[electronic resource](#)]. It should be noted that male inmates awaiting trial are normally incarcerated in Amos, whereas men sentenced following their trial are normally incarcerated in Saint-Jérôme.

²² See the definition of holding cell in paragraph 25.

- 16 The administration of justice in Nunavik is carried out through the Itinerant Court with a Court of Québec judge presiding. The Itinerant Court currently serves 8 of the 14 communities²³ in Nunavik. Note that Nunavik is part of the Abitibi judicial district.²⁴ Judges of this judicial district therefore travel to hear cases, based on a fixed Court calendar.²⁵
- 17 When the Itinerant Court sits for criminal and penal matters in Nunavik, the plane leaves from Val-d'Or, usually with the judge, criminal and penal prosecutor, defence attorneys, court clerks, correctional officers and the people who need to stand trial.²⁶ The rationale here is to make justice more accessible.
- 18 Québec Ombudsman representatives were in Puvirnituq and Kuujuaq during Itinerant Court sessions, which allowed them to visit the holding cells and police station cells while they were occupied by detainees awaiting their court appearance or trial in Nunavik. This also made it possible for the Québec Ombudsman's representatives to attend criminal trials and meet the inmates, the correctional officers overseeing detainees' custody during Itinerant Court sessions, Kativik Regional Police Force officers and defence attorneys.

Obligations of the Direction générale des services correctionnels

- 19 The Direction générale des services correctionnels of the Ministère de la Sécurité publique is responsible for the custody of inmates when the Itinerant Court has sessions in a Nunavik village.
- 20 Although there are no correctional facilities in Nunavik, the Direction générale des services correctionnels remains responsible for custodial activities and for escorting inmates to Court on this territory.²⁷ Concretely, during Itinerant Court sessions, correctional officers travel with the people awaiting trial and oversee their custody in police station cells or holding cells in the village in question. They are therefore responsible for the custody of people awaiting trial who came from the South for their court appearance, as well as that of people arrested by police officers during the week the Court is in session.
- 21 It should be noted that the respective responsibilities of the Direction générale des services correctionnels and of the Kativik Regional Government with regard to custodial activities in Nunavik are set out in Appendix B of the *Agreement concerning Block Funding for the Kativik Regional Government* (Sivunirmut Agreement).²⁸ The respective obligations of both authorities will be discussed in Chapter 1.

²³ According to the schedule for the 2014-2015 judicial year, the Itinerant Court did not visit the other six villages, namely Akulivik, Aupaluk, Inukjuak, Ivujivik, Tasiujaq and Umiujaq. Cases from those villages are handled by the Itinerant Court when the court visits the villages it serves. MINISTÈRE DE LA JUSTICE, *calendriers de la Cour itinérante, 2014-2015, côte de la baie d'Hudson et côte de la baie d'Ungava*, Québec.

²⁴ Court services in Northern Québec are provided from the Amos courthouse.

²⁵ It should be recalled that Itinerant Courts were established by the Ministère de la Justice du Québec in 1974. The *James Bay and Northern Québec Agreement* formalized this system for Nunavik populations. See SECRÉTARIAT AUX AFFAIRES AUTOCHTONES, *James Bay and Northern Québec Agreement*, supra, note 17.

²⁶ It should be noted that the Itinerant Court sat for 35 weeks last year to hear criminal and penal cases, and 12 weeks to hear youth cases, namely a total of 47 weeks during which the Court was in session in Nunavik. MINISTÈRE DE LA JUSTICE, *calendriers de la Cour itinérante, 2014-2015*, supra, note 23.

²⁷ Inmates in Nunavik are under the responsibility of the Réseau correctionnel Ouest du Québec. The Director of Correctional Services for Abitibi-Témiscamingue, Northern Québec, handles the logistics concerning inmate transfers to and from Nunavik. SECRÉTARIAT AUX AFFAIRES AUTOCHTONES, *Sivunirmut Agreement*, supra, note 4.

²⁸ *Id.*

Observations and Analysis

1 Inuit and the Québec correctional system

- 22 In this chapter, the Québec Ombudsman focuses on the shortcomings of the detention conditions of Nunavimmiut in Nunavik. Detention conditions in Southern Québec correctional facilities are also examined.
- 23 The statements below are the result of the Québec Ombudsman's observations further to visiting holding cells and police station cells in Puvirnituaq and Kuujjuaq. They also take into account statements from inmates and the correctional officers overseeing their custody, as well as complaints received over the past few years and statements obtained when visiting Southern Québec correctional facilities.
- 24 Each section in this chapter includes recommendations for improvements to current procedures in order to ensure that inmates' residual rights are upheld.

1.1 Detention conditions in Nunavik and upholding of inmates' residual rights

- 25 Holding cells are confinement areas under the responsibility of the Direction générale des services correctionnels. They are usually located in the same building as or close to a courthouse, and are used to temporarily hold inmates set to appear before the judge. Holding cells in Nunavik are strictly reserved for use by the Direction générale des services correctionnels. Therefore, during weeks when the Itinerant Court is not in session, these cells are empty.
- 26 In Kuujjuaq, holding cells are annexed to the police station, a stone's throw from the courthouse. In Puvirnituaq and Kuujjuarapik, holding cells are annexed to the courthouse, but several streets away from the police station. In Kuujjuaq, depending on their classification, inmates may remain in holding cells day and night, whereas in Puvirnituaq and Kuujjuarapik, unless exceptional circumstances are involved, only a few inmates at a time stay there for just part of the day while awaiting their court appearance or trial. The remainder of the time, they are detained in the villages' police stations, even at night.
- 27 Outside of the above-mentioned scenarios and in other Nunavik villages, inmates awaiting trial are detained in police station cells. During weeks when the Itinerant Court is in session, the teams of correctional officers of the Ministère de la Sécurité publique are responsible for inmate custody. These teams take over from the police force and oversee the sections where the Puvirnituaq, Kuujjuarapik and Kuujjuaq police station cells are located.
- 28 Under the applicable legislation, correctional services must uphold inmates' residual rights and exercise "reasonable, safe, secure and humane control."²⁹ Despite efforts by the Direction générale des services correctionnels to meet its obligations, it is clear that these rights are not always respected in the current circumstances. Be that as it may, the Québec Ombudsman would like to mark the dedication of the correctional officers responsible for custody in Nunavik, without whom detention conditions for Nunavimmiut would be much worse.

²⁹ *An Act respecting the Québec correctional system*, CQLR, c S-40.1, s 1: "The correctional services of the Ministère de la Sécurité publique [...] shall facilitate the reintegration of offenders into the community. In keeping with the residual rights of the offenders, the correctional services shall contribute to the maintenance of a safe society [...] by providing reasonable and humane measures of security and control in their regard, while recognizing their potential for rehabilitation and their willingness to engage in a reintegration process."

1.1.1 Very high cell occupancy, particularly in Puvirnituaq

- 29 First, it should be reiterated that, in the opinion of the Québec Ombudsman, “normal” occupancy should consist of one person per cell, in accordance with the objectives set by member countries of the United Nations.³⁰ The principles of human dignity are clearly at the core of this position, but safety is also a consideration, both for the inmates and correctional officers who watch over them. On the other hand, the internal standards of the Direction générale des services correctionnels stipulate that a cell can consist of single or double occupancy.³¹ Although under certain circumstances, the Québec Ombudsman agrees that double occupancy in cells in Québec correctional facilities is necessary, it intervenes whenever it notices or is informed that a cell holds more than two people. Such a practice is considered excessive.
- 30 Even though holding cells that are operational day and night were established in Kuujuaq in February 2010, which helped reduce the occupancy rate for inmates travelling with the Itinerant Court for their trial,³² there are only six cells available at the Puvirnituaq police station,³³ each approximately 5.5 m² by 9 m². Since one of them is used as a segregation or isolation cell and correctional officers must keep at least one additional cell free at all times to hold people arrested by police officers during a Court session week, there are really only four cells remaining for offenders coming in from Amos for a Court appearance or to stand trial.
- 31 As a result, the situation is especially problematic in Puvirnituaq. At the start of each week of Court, 8 to 11 people, escorted by correctional officers, arrive from Amos via the Itinerant Court plane.³⁴ This plane, which generally lands in Nunavik on Monday and leaves on Friday, brings Court personnel, officers and accused individuals who must remain in detention. The correctional officers are therefore not only responsible for the custody of the people awaiting trial whom they have escorted from the South during the week, but are also responsible for individuals already occupying the cells when they arrive, those who will be arrested during the week, those who were released but will need to be incarcerated following their trial, and those coming in from Amos via other Itinerant Court flights.
- 32 It is not uncommon for the Itinerant Court plane to run out of seats for all inmates coming in from the South for a court appearance during a given week. That is why the Direction générale des services correctionnels often charts other flights during a Court week to allow these people to make an appearance in Court. When the plane leaves again, the correctional officers who escorted inmates that morning return with other individuals who made their Court appearance and need to be incarcerated.
- 33 In the above-mentioned context, it is difficult for police and correctional officers to respect the informally fixed maximum occupancy of three inmates per cell.³⁵ The data from the

³⁰ “Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself or herself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.” UNITED NATIONS, COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE, *Minimum Rules for the Treatment of Prisoners (Mandela Rules)*, 2015, Rule 12 (1), [[electronic resource](#)].

³¹ DIRECTION GÉNÉRALE DES SERVICES CORRECTIONNELS, *Instruction 2 1 / 03 Classement d'une personne incarcérée dans un établissement de détention*, Québec, 2014, s 5.5.

³² Twelve additional places, in addition to cells available at the police station.

³³ There are only three cells in smaller police stations such as Akulivik.

³⁴ MINISTÈRE DE LA SÉCURITÉ PUBLIQUE, *Rapports journaliers pour le calendrier judiciaire 2014-2015, Puvirnituaq*, Québec.

³⁵ The correctional officers and police officers interviewed told us that they try to comply with an occupancy rate of three inmates per cell. In the South, it is inconceivable to detain more than two inmates per cell, except in the Amos correctional facility, which is chronically overcrowded and which is on the verge of being replaced, and only under exceptional and temporary circumstances.

Ministère de la Sécurité publique³⁶ and the information collected by the Québec Ombudsman show that a cell intended for one or two people sometimes has six or seven occupants, which is in violation of prescribed rules and established standards.³⁷

- 34 Some weeks, the situation is especially difficult. The “average” occupancy rate of police station cells during a Court week is about 15 people at a time. The documentation collected reveals that the maximum number of inmates admitted to the Puvirnituaq police station last year was of 67 in just one week of Itinerant Court.³⁸
- 35 The Québec Ombudsman visited the Puvirnituaq police station on Thursday, April 23, 2015. There were no more than three people per cell. However, statements from custody officers, along with the documentation collected, reveal that between Monday, April 20, and Wednesday, April 22, occupancy at the police station exploded, with at least 25 people occupying the cells at one time. Due to the presence of detainees with special profiles, who needed to be segregated from the others (women, young offenders and people in protective custody) during this period, seven women had to share a single cell and stay up all night because there was not enough room to sleep.

Cramped detention cells

The Québec Ombudsman visited the Puvirnituaq police station on Thursday, April 23. Based on the data collected, 11 people arrived via the Itinerant Court's plane from Amos on Monday, April 20, for their Court appearance or trial. There were already 7 inmates awaiting their court appearance and 2 intoxicated individuals on site at the police station.

Three planes were chartered during the week: a first one on Tuesday, April 21, and two others on Thursday, April 23, carrying respectively 5, 4 and 4 additional individuals slated for court appearances. Each of the planes left on the same day as their arrival, with respectively 6, 6 and 5 inmates who had made their court appearance or stood trial. This helped reduce the occupancy at the Puvirnituaq police station (before the Québec Ombudsman's announced visit).³⁹

- 36 The Québec Ombudsman recognizes the efforts by the Direction générale des services correctionnels to reduce the average occupancy in Puvirnituaq police station cells.⁴⁰ For instance, additional flights are scheduled during Court weeks with a view to relieving some detention cells. In this respect, the Québec Ombudsman considers that adding flights in order to reduce the occupancy rate of police station cells — especially in Puvirnituaq — should continue until a permanent solution is implemented. Although the

³⁶ MINISTÈRE DE LA SÉCURITÉ PUBLIQUE, *Rapports journaliers pour le calendrier judiciaire 2014-2015*, Kuujuaq, Puvirnituaq and Kuujuarapik, Québec.

³⁷ See, in this regard, notes 30 and 31 above.

³⁸ MINISTÈRE DE LA SÉCURITÉ PUBLIQUE, *Suivi de la clientèle – Comparution nordique*, Puvirnituaq, June 8-12, 2015. It should be noted that not all of these inmates spent the night at the police station. Some of them were returned South or released. However, the occupancy rate was still significantly higher than that which the Québec Ombudsman considers reasonable.

³⁹ MINISTÈRE DE LA SÉCURITÉ PUBLIQUE, *Rapports journaliers de la semaine du 20 au 24 avril 2015*, Puvirnituaq. For more information on chartered planes, see Chapter 2 of this document, which addresses transfers.

⁴⁰ “Following the Québec Ombudsman's intervention, several flights were added during the court week in Puvirnituaq, which resulted in a lower occupancy rate in the Puvirnituaq police station.” DIRECTION GÉNÉRALE DES SERVICES CORRECTIONNELS, MINISTÈRE DE LA SÉCURITÉ PUBLIQUE, RÉSEAU CORRECTIONNEL OUEST DU QUÉBEC, *Annual report of the Direction générale des services correctionnels to the Kativik Regional Government concerning Section B.11 of the Sivunimut Agreement Addressing Logistic support for guard services on Kativik territory*, Québec, 2014.

situation is better in Kuujuaq, there is a glaring need for additional cells at the Puvirniq police station.⁴¹

- 37 Even though the number of inmates under the responsibility of the Direction générale des services correctionnels is now higher in Puvirniq than in Kuujuaq, there are fewer cells to hold them. The number of trials is continually growing in Puvirniq — this is now the place where the Itinerant Court holds the most sessions. Therefore, in 2014-2015, the Court spent 68 days there, versus 53 days in Kuujuaq.⁴² Needs are even more substantial given that Puvirniq is a hub of administration of justice in Nunavik; anyone in Hudson Bay who needs to make a court appearance is brought or temporarily detained there. For example, when the Itinerant Court is in session in Salluit, inmates are detained in Puvirniq following their court appearance or trial due to the lack of adequate facilities in Salluit and because it is impossible for Itinerant Court planes to spend the night there. Since access to Salluit is difficult, planes carrying members of the Itinerant Court are often rerouted to Puvirniq when Court sessions are postponed or cancelled, which means cells quickly and regularly become overcrowded.⁴³
- 38 Overcrowding causes a significant lack of privacy, which the Direction générale des services correctionnels authorities acknowledged in their 2013 report for the Kativik Regional Government: “[...] the lack of room in police station cells is regularly reported. The number of arrests and trials in the North has been growing significantly for the past several years, creating an important lack of privacy between inmates.”⁴⁴
- 39 The fact that inmates are crowded into small spaces can lead to built-up tension and be dangerous to them as well as to the people responsible for their custody, transportation and escorting. That is why the Québec Ombudsman considers that immediate action is necessary.
- 40 Expanding the holding cell area at the Puvirniq courthouse is a realistic solution for the medium term. The Direction générale des services correctionnels has considered adding three sectors with living areas and 30 additional places. The holding cells could then be operational both day and night during Itinerant Court sessions, which is not currently the case, notably due to the shortage of space.⁴⁵ Since 2014, the expansion project has ranked 9th in the confinement infrastructure planning framework.⁴⁶ The project is not part of the Québec infrastructure plan presently.⁴⁷ In light of the current situation, the Québec Ombudsman considers that the expansion should be moved up the list of priorities.

⁴¹ To provide context, although smaller in size, the Kuujuarapik police station was built on the same model as the police station in Kuujuaq. However, the Itinerant Court only visits four times a year given the lower crime rate. In view of the sound cooperation with partners, it would be possible to transfer inmates to the Cree police station when cells are full.

⁴² MINISTÈRE DE LA JUSTICE, *supra* note 23. It should be noted that in youth protection cases, the Court sat for 26 days in Kuujuaq and 30 days in Puvirniq.

⁴³ Due to weather conditions, it is often impossible to land in Salluit. When the Court is in session, several planes carry inmates needing to make a court appearance or needing to be incarcerated to Puvirniq. For these reasons, trips to Salluit are quite expensive. In 2014-2015, it cost the Court more than \$75,000 on average to sit in Salluit for one week.

⁴⁴ DIRECTION GÉNÉRALE DES SERVICES CORRECTIONNELS, *supra* note 8.

⁴⁵ It should be noted that, in spite of our requests, the Direction générale des services correctionnels told the Québec Ombudsman that it cannot provide an estimated cost for the expansion, which we find regrettable.

⁴⁶ DIRECTION GÉNÉRALE DES SERVICES CORRECTIONNELS, *supra* note 40.

⁴⁷ CONSEIL DU TRÉSOR, GOUVERNEMENT DU QUÉBEC, *Québec Public Infrastructures. 2015-2025. Québec Infrastructure Plan, 2015-2016 Annual Management Plans for Public Infrastructure Investments*, March 2015, [[electronic resource](#)].

Recommendations:

Concerning detention cell occupancy rates in Nunavik

Whereas:

Puvirnituaq has become a hub for the administration of justice in Nunavik;

The Direction générale des services correctionnels acknowledges the overcrowding and lack of privacy resulting from the current occupancy rate of cells in Puvirnituaq;

The number of people who need to be incarcerated in Nunavik during Itinerant Court sessions is increasing, and the same is true of the number of Court days in Puvirnituaq;⁴⁸

Detention and hygiene conditions at the Puvirnituaq police station are the worst the Québec Ombudsman has ever seen;

Due to a shortage of space, inmates must live under inhumane conditions that violate international rules, charters of rights and freedoms, laws, regulations and ministerial instructions;

Due to a shortage of space and staff, inmates cannot spend the night in the Puvirnituaq holding cells;

The Direction générale des services correctionnels is considering expanding the Puvirnituaq holding cell area;

The Kativik Regional Government considers that expanding Puvirnituaq holding cells area is the only medium- to long-term option for increasing the number of detention cells for inmates in Puvirnituaq;

The Québec Ombudsman is aware of budgetary constraints, though these constraints should not be a pretext for failing to implement immediate solutions given the human — particularly health — and safety risks stemming from overly high detention cell occupancy.

The Québec Ombudsman recommends:

R-1 That the Ministère de la Sécurité publique, in cooperation with the Ministère de la Justice, immediately make the expansion of Puvirnituaq courthouse holding cell area a priority.

R-2 That the Ministère de la Sécurité publique immediately identify and implement means of reducing the occupancy rates of Puvirnituaq police station cells in the short-term and of ensuring adequate cleanliness and hygiene.

⁴⁸ The number of days increased from 25 to 68 in ten years. The figure is 98 if days reserved for youth protection cases are taken into account in the Court calendar. Data received from the MINISTÈRE DE LA JUSTICE DU QUÉBEC, August 2015.

1.1.2 Mixed client populations

- 41 Generally speaking, individuals incarcerated during legal proceedings must be kept separate from those who have been sentenced in order to uphold the principle of innocent until proven guilty.⁴⁹ Youth must also be kept separate from adults, and men from women.⁵⁰ Anyone confined to a correctional facility "has the right to separate treatment appropriate to his sex, his age and his physical or mental condition."⁵¹ For safety reasons, different kinds of detainees are processed differently.
- 42 As mentioned in the previous section, when the Itinerant Court arrives in Puvirnituk or Kuujuaq, the people travelling with it for a court appearance or for trial in Nunavik are put in with people who are already incarcerated in the police station cells, some of whom are intoxicated or present a risk of suicide. From the moment these people arrive and until their departure, correctional officers automatically become responsible for their custody, both for the people they are escorting and for anyone else detained in the cells by police officers.
- 43 Theoretically, correctional officers must always keep a certain number of cells free to hold people who may be admitted following their arrest by police officers during a week when the Court is in session. However, in the real world, this is far from the case. The Québec Ombudsman considers that it is difficult under current conditions to segregate detainees from people awaiting trial, and to keep certain types of detainees separate from one another.
- 44 It should be noted that people responsible for custody do everything in their power to keep the main types of detainees separate from each other. However, due to the shortage of space at the Puvirnituk police station, officers are forced to place far too many people in a single cell, and to group people with incompatible profiles.
- 45 This mixing of detainees is problematic in several ways. People travelling with the Itinerant Court and awaiting their trial end up in close proximity to intoxicated or suicidal individuals who are sometimes in a state of crisis. Detainees often stay up at night because it is too noisy to sleep. The situation is exacerbated by the shortage of space and the insufficient number of cells. Furthermore, when one or more cells are reserved for intoxicated people or other detainees who need to be kept separate (young offenders, people in protective custody), the occupancy rate for the other cells greatly exceeds any established standard.

What it was like on April 20, 2015

On Monday, April 20, 2015, correctional officers boarded a first plane to Puvirnituk, bringing with them eleven inmates they were escorting from Amos to stand trial. When they arrived at the police station, there already were seven inmates in the cells, as well as two intoxicated individuals, for a total of twenty people. This police station has only six cells.

Of the eleven inmates coming in from Amos, there was a young offender and an offender in protective custody. Both of them needed to be in separate cells.

⁴⁹ UNITED NATIONS, COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE, *supra* note 30, Rule 11; *Charter of Human Rights and Freedoms*, CQLR, c. C-12, s. 1 and 27.

⁵⁰ UNITED NATIONS, COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE, *supra* note 30, Rule 11; *Charter of Human Rights and Freedoms*, *supra* note 49, s. 26.

⁵¹ *Charter of Human Rights and Freedoms*, *supra* note 49, ss. 25 and following, under "Judicial Rights." See also: DIRECTION GÉNÉRALE DES SERVICES CORRECTIONNELS, *Instruction 2 1 1 03*, *supra* note 31, which provides that each inmate must be detained in reasonable, safe, secure and humane accommodations that comply with the applicable charters and laws.

Since there were no cells available, the individual in protective custody, who had to remain separate from other detainees at all times, was handcuffed in the station's corridor for a few hours until his court appearance, waiting for a cell to free up.⁵²

- 46 Due to the shortage of space, and despite efforts by correctional officers to prevent this type of situation, lack of privacy and mixed client populations increase the risk of violence between inmates and toward those responsible for detainee custody. In a context of overcrowding, their interventions become a risk for the inmates and for themselves.

Recommendation:

Concerning mixed client populations

Whereas:

During a session of the Itinerant Court in a given village, correctional officers become responsible for the custody of all people arrested or detained by Kativik Regional Police Force officers, including intoxicated or suicidal individuals;

For reasons of safety, people who must be incarcerated are entitled to treatment appropriate to their sex, age and physical or mental condition;

The shortage of space means that inmates under the responsibility of correctional services must cope with very difficult detention conditions, particularly due to the presence of intoxicated, noisy — and sometimes aggressive — individuals.

The Québec Ombudsman recommends

R-3 That, by June 30, 2016, the Ministère de la Sécurité publique take the necessary measures to ensure that different types of client populations be detained separately, in compliance with the *Charter of Human Rights and Freedoms*, which stipulates that anyone confined to a correctional facility has the right to separate treatment appropriate to his sex, his age and his physical or mental condition.⁵³

1.1.3 Unsanitary conditions and the condition of equipment⁵⁴

- 47 The Québec Ombudsman has received complaints and statements from inmates, people responsible for their custody at the police station in the absence of police officers ("civil guardians") and correctional officers, all of which indicate that the lack of sanitation and hygiene in detention cells — particularly at Nunavik police stations — creates appalling living conditions.
- 48 Contrary to Kuujuaq holding cells and police station cells, which have been renovated in the past few years, the Puvirnituq police station is dilapidated. Each cell has a toilet and sink, which are often blocked, causing a foul smell. There is also a foul smell on entering the

⁵² MINISTÈRE DE LA SÉCURITÉ PUBLIQUE, *supra* note 39.

⁵³ *Charter of Human Rights and Freedoms*, *supra* note 49.

⁵⁴ See in this regard, BARREAU DU QUÉBEC, *Justice in the Far North. Report on the Barreau du Québec's Missions to Aboriginal Communities in Québec's Far North*, Québec, 2015 [[electronic resource](#)]. This report relates problems related to detention conditions and justice in Nunavik. See also BARREAU DU QUÉBEC, *Première mission du Barreau du Québec dans le Nord. La justice offerte aux populations nordiques est une justice de seconde zone*, press release issued on April 30, 2013, [[electronic resource](#)].

police station. The Québec Ombudsman also noted that the cells at this police station were filthy (dust, graffiti, traces of blood, excrement and other bodily fluids).

Information received by the Québec Ombudsman

Prior to its visit, the Québec Ombudsman received information to the effect that in one of the police stations in Nunavik, the mattresses were soiled and people who were ill were left unattended. Also, the absence of water meant that inmates were not able to shower for four days. Moreover, a dog was roaming the premises.

Infrastructure and basic supplies

- 49 In Nunavik, every cell has a toilet and sink. With the exception of a few Kuujjuaq holding cells, there are no beds for the inmates.⁵⁵ Whether in holding cells or police stations cells, everyone sleeps on a mattress on the ground.
- 50 Inmates crowd onto poor-quality, often torn mattresses. Several mattresses have lost their original protective covering, leaving inmates with just a 5 cm-thick, bare mattress. Furthermore, there are not enough pillows for the number of inmates. Generally, police stations have very few mattresses and bedding despite the significant number of inmates there.
- 51 The Québec Ombudsman also noted that the blankets and bedsheets given to new arrivals were dirty. To make up for the lack of bedding, the people responsible for inmates' custody sometimes allow the inmates to use their own coats as a blanket.
- 52 The Direction générale des services correctionnels is responsible for the cost and delivery of the equipment needed for custodial activities related to the presence of the Itinerant Court (mattresses, bedding, toiletries, suicide intervention equipment, etc.) for Kuujjuaq and Kuujjuarapik holding cells, as well as for Puvinituq police station cells.⁵⁶ The Ministère de la Sécurité publique is therefore tasked to make these purchases and arrange to have them shipped to Kativik.
- 53 According to the information gathered, the Ministère de la Sécurité publique performs an inventory of supplies once a year, and correctional officers "attempt" to send the missing items to Nunavik. During the year, some officers also "try" to bring in supplies on their own initiative. However, given the limited space on planes, it is not always possible to bring these supplies on board. The Québec Ombudsman feels that the Direction générale des services correctionnels has shown a lack of initiative and must come up with a solution to ensure that supplies are sent to Nunavik as needed. There should also be regular inventories performed to ensure that there is enough material at all times, as stipulated in holding cell living arrangements.⁵⁷
- 54 In summary, the Québec Ombudsman concludes that basic supplies needed for custodial activities are either missing, in bad repair, dirty or scarce.
- 55 Furthermore, the Québec Ombudsman saw that the small wall near the sanitation facilities did not provide any privacy. Inmates regularly complain about the lack of privacy and foul

⁵⁵ There are a few bunk beds in Kuujjuaq holding cells.

⁵⁶ SECÉTARIAT AUX AFFAIRES AUTOCHTONES, *Sivunirmut Agreement*, *supra* note 4.

⁵⁷ Living arrangements at Puvinituq, Kuujjuaq and Kuujjuarapik holding cells provide for the following items to be distributed to each inmate: 2 sheets, 1 pillow, 1 pillow case, 1 wool blanket in the summer and 2 in the winter, as well as a towel and a cup. MINISTÈRE DE LA SÉCURITÉ PUBLIQUE, *Régimes de vie du quartier cellulaire du poste de police de Kuujjuarapik, Kuujjuaq et Puvinituq*, Québec, 2009.

smells from the sanitation facilities and the sink. It is easy to imagine how the situation worsens in periods of overcrowding.

- 56 Moreover, several toilets barely drain, if at all. During its visit of the correctional facilities, the Québec Ombudsman also observed that several sinks were blocked. In one of the cells, a non-functional sink had been replaced with a foul-smelling tub of water.
- 57 Because of the absence of a sewage system in Nunavik, every building has to have two water tanks — one for drinking water and one for waste water. Tank trucks provide the water supply and empty the septic tanks. In order for sanitation facilities to work, there must be water in the first tank and the second tank must be emptied. When this is not the case, conditions become unsanitary and there are foul smells. Even though water supply services are improving, water quantity is limited, especially at the Puvirnituaq police station, where the cell occupancy rate is high. Tank capacity is proportional to the occupancy the building was intended for. However, actual occupancy is often tenfold given the chronic overcrowding.
- 58 Finally, access to a shower is also an issue, particularly for Puvirnituaq inmates. Because of the smallness of the tank mentioned in the previous paragraph, the number of showers is very limited. Broken equipment and water supply issues are also primary causes. Most often, even if the shower is working, only cold water is available. All of the statements collected from inmates and the officers responsible for their custody confirm that some detainees can go several days without washing.⁵⁸

Case in Puvirnituaq

Given the shortage of space in Puvirnituaq, the single shower is used for storing inmates' personal belongings. There is a foul smell coming from the drain and the fan is mouldy. Unless the correctional officers take the time to empty the shower, there is no real opportunity for inmates to use it. Moreover, due to equipment failure, only cold water is available. Some of the inmates interviewed confirmed that they had not showered in six days or been offered any toiletries to do so.

The custody officers confirmed that it is difficult to shower at the Puvirnituaq police station. For example, one officer explained that a woman arrested on Thursday, April 16, 2015, appeared before the Itinerant Court the following Monday. In the meantime, she did not get to step outside and, despite the fact that she had specific hygiene needs, was not allowed to shower in those four days. According to officers, there has not been any hot water in this shower for several years.

- 59 The Québec Ombudsman considers this unacceptable, especially in a context in which minimum investments would be required in order for the normative framework to be followed⁵⁹ and that the reported issues related to access and broken equipment would be resolved once and for all.

⁵⁸ An inmate must be able to shower or bathe at least twice a week and must have toiletries available for that purpose: *Regulation under the Act respecting the Québec correctional system*, CQLR c S-40.1, r. 1, s. 6.

⁵⁹ Specifically under the Sivunirmut Agreement (SECRETARIAT AUX AFFAIRES AUTOCHTONES, *supra* note 4) and the living arrangement at the Puvirnituaq police station holding cells (MINISTÈRE DE LA SÉCURITÉ PUBLIQUE, *supra* note 57, s. 1.6), which provides access to a sink and showers. Inmates can take showers between 8:30 a.m. and 10:30 p.m., except during visiting hours. Living arrangements in Kuujuaq and Kuujuarapik also provide access to a shower.

Recommendations:

Concerning infrastructure and basic supplies

Whereas:

The number of inmates in Nunavik increases when the Itinerant Court is in session, and there is a correlated increase in basic needs, such as mattresses, bedding and access to water;

It is necessary to meet current needs and plan for additional supplies in case of sporadic increases in the number of inmates;

The Sivunirmut Agreement stipulates that the Direction générale des services correctionnels is required to purchase and arrange for the shipment to Nunavik of mattresses and bedding used for custodial activities;

Sanitation facilities are often defective or unusable, particularly due to water supply issues;

The normative framework stipulates that inmates in Québec correctional facilities are to shower at least twice per week;

Obsolescence and uncleanliness entail health risks and can lead to the transmission of infectious diseases, to say nothing of the psychological harm inherent in such unsanitary conditions;

The Direction générale des services correctionnels is required to ensure that detention conditions for people under its responsibility are humane and comply with the law, even if it does not own the facilities used for detention.

The Québec Ombudsman recommends:

R-4 That the Ministère de la Sécurité publique immediately ensure, through thorough management and follow-up of its material resources, prompt delivery of a sufficient amount of basic supplies — particularly mattresses and bedding — to all Nunavik detention cells, that it arrange for appropriate storage of these basic supplies and that it account for this formally in order to guarantee that the obligations stemming from the Sivunirmut Agreement are met.

R-5 That the Ministère de la Sécurité publique immediately take the necessary measures to ensure that all sanitation facilities are in proper working order at all times, and that there is access to sufficient quantities of hot and cold water at all times.

Laundry and janitorial services

60 Laundry and janitorial services — if any — are deficient. The Québec Ombudsman noted that the bedding available is not always clean. According to the correctional officers responsible for the custody of inmates and statements from the inmates themselves, this has been the case for several years.

► Laundry services

61 The Québec Ombudsman noted that custody officers are not systematically notified when a person has been formally assigned to laundry. This is the case in Puvirnituk, where the turnover for this task is high, thereby regularly depriving inmates of clean bedding. It should

be noted that the few bedsheets, blankets and pillows available are stored in the closet in the vicinity of the shower. In Puvirnituk, this area reeks of excrement.

- 62 In Kuujuaq and Kuujuarapik, there is a washer and dryer available at the police station. If clean sheets are in short supply, correctional officers can put in a load of laundry. Furthermore, in both these villages there are people assigned to laundry, making it easier to ensure the cleanliness of the material used.
- 63 According to the normative framework, the Kativik Regional Government is responsible for providing laundry and janitorial services for holding cells (Kuujuaq, Kuujuarapik and Puvirnituk) and all police station cells.⁶⁰ However, the Québec Ombudsman was surprised to learn that in the 2013 and 2014 annual reports provided to the Kativik Regional Government, the Direction générale des services correctionnels affirmed that the Kativik Regional Government complied with this obligation.⁶¹ **The Québec Ombudsman does not share this opinion, and considers that someone must be appointed to oversee the enforcement of these obligations, thereby ensuring that the material used is clean.**

► Janitorial services

- 64 Although contacts have confirmed that some housekeeping was carried out at the request of the authorities prior to the visit by the Québec Ombudsman's representatives, these representatives saw that the premises were nonetheless unsanitary.
- 65 Conditions are the most appalling at Puvirnituk police station cells. In addition to the high turnover during Court weeks, this is the place where there are the fewest effective mechanisms for a regular cleaning routine. When the Québec Ombudsman's representatives visited, no one in Puvirnituk had been hired to perform housekeeping duties, and this had been the case for several months. When arriving on the Monday of a Court week, some correctional officers — unable to bear the thought of bringing inmates into unsanitary facilities — clean the cells themselves, unless the inmates do so on their arrival. In this case, the detainees are provided with cleaning products.
- 66 It should be noted that even though housekeeping for holding cells is generally less of an issue, we have heard statements claiming that the person hired to clean the Puvirnituk courthouse did not systematically clean the cells.
- 67 At the Kuujuaq and Kuujuarapik police station cells and holding cells, housekeeping is less of a problem. In Kuujuaq, a resource-person is assigned to perform emergency cleaning as needed when correctional officers arrive.

Statements from inmates at the Puvirnituk police station

The inmates who were interviewed demanded that more thorough cleaning be done. They cited the smell of urine and the unsanitary condition of the premises and of the material provided (bedding, mattresses). They brought up the issue of cell overcrowding and the fact that the sinks are either broken or blocked and the toilets only work sporadically. They feel uncomfortable relieving themselves in the presence of other people.⁶² Mattresses are uncomfortable and smelly. Sometimes, there are no bedsheets or blankets available, and access to a hot shower seems impossible.

⁶⁰ SECRÉTARIAT AUX AFFAIRES AUTOCHTONES, *Sivunirmut Agreement*, *supra* note 4.

⁶¹ DIRECTION GÉNÉRALE DES SERVICES CORRECTIONNELS, *supra* notes 8; DIRECTION GÉNÉRALE DES SERVICES CORRECTIONNELS, *supra* note 40.

⁶² See, in this regard, paragraphs 79 and following, as well as recommendation 12.

Recommendations:

Concerning laundry and janitorial services

Whereas:

Inmates are sometimes forced to use dirty — if not filthy — material, thereby putting their health at risk;

The Québec Ombudsman has noted the unsanitary condition of detention cells, particularly at the Puvirnituaq police station;

The Sivunirmut Agreement stipulates that the Kativik Regional Government is responsible for providing laundry and janitorial services resulting from the use by the Direction générale des services correctionnels of the holding cells in Kuujjuaq, Kuujuarapik and Puvirnituaq, as well as cells and police stations in other villages in Nunavik;

The Direction générale des services correctionnels is required to ensure that detention conditions for inmates under its responsibility are humane and comply with the law even though it has delegated certain responsibilities to the Kativik Regional Government under the Agreement.

The Québec Ombudsman recommends:

R-6 That the Ministère de la Sécurité publique immediately establish mechanisms to ensure that the Kativik Regional Government fulfils its obligation to provide laundry and janitorial services for each detention cell.

R-7 That the Ministère de la Sécurité publique ensure that detention cells are thoroughly cleaned and disinfected immediately, and on a regular basis thereafter.

1.1.4 Denied residual rights

Meals

- 68 Both at the Puvirnituaq police station and in holding cells there, inmates do not have access to tables or chairs at mealtime. This is also the case for smaller police stations. Inmates therefore eat sitting directly on the floor or crowded onto small mattresses.
- 69 At the Puvirnituaq police station, the only refrigerator (located in the police officers' quarters) is used by correctional officers to store inmates' food as well as their own. The Québec Ombudsman also noted that medical kits used as evidence in sexual assault cases (which are not cleaned after being used) are stored next to inmates' food and that of the custody officers.
- 70 In some police stations, inmates do not always get balanced meals.⁶³ Although the situation has improved in the last year (meals in Kuujjuaq, Kuujuarapik and Puvirnituaq are healthier),

⁶³ For example, toast for breakfast and frozen meals for lunch and dinner. It should be noted that the Minimum Rules provide that "every prisoner shall be provided by the prison administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served. Drinking water shall be available to every prisoner whenever he or she needs it." UNITED NATIONS, COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE, *supra* note 30, Rule 22.

recently, when some service contracts expired, certain services were not carried over into the new contract. This has resulted in poor delivery, delays and lower food quality.

- 71 The Kativik Regional Government's obligations to the Ministère de la Sécurité publique consist of providing and delivering food to inmates under the responsibility of the Direction générale des services correctionnels.⁶⁴ Under the terms of the normative framework, the Kativik Regional Government must provide and deliver meals to inmates in Kuujjuaq, Kuujjuarapik and Puvirnituaq holding cells, as well as to police stations in the villages where the Court sits. As the Québec Ombudsman sees it, this obligation should entail the provision of balanced, healthy meals, equivalent to those served in Southern Québec correctional facilities.

Recommendation:

Concerning food services for Nunavik inmates

Whereas:

Despite the improved quality and frequency of meals distributed in Kuujjuaq, Puvirnituaq and Kuujjuarapik over the last year, service cuts have recently been noticed, particularly when supplier contracts expire;

The normative framework stipulates that the Kativik Regional Government is responsible for providing meals to inmates in Kuujjuaq, Kuujjuarapik and Puvirnituaq holding cells and in the villages' police station cells;

The Direction générale des services correctionnels is required to ensure that detention conditions for inmates under its responsibility are humane and comply with the law even though it has delegated certain responsibilities to the Kativik Regional Government under the Agreement.

The Québec Ombudsman recommends:

R-8 That the Ministère de la Sécurité publique ensure that the quality and quantity of meals provided to inmates by the Kativik Regional Government meet required standards, and that it follow up with the Kativik Regional Government to ensure that there are mechanisms established to ensure service continuity when new suppliers are awarded contracts.

Common area and recreational activities

- 72 Inmates in Puvirnituaq and in police stations in other villages do not have access to common areas, since the smaller police stations were not designed to have them. Unless they are travelling to Court, inmates remain in their cells 24/7. Furthermore, with the exception of the occasional card or cribbage game, they have no form of entertainment, even though they may spend more than a week at a police station.⁶⁵
- 73 The situation is different at the Kuujjuaq police station. Because of renovations in 2010, there is now a common area with board games and a television set.⁶⁶ At the Kuujjuarapik police

⁶⁴ SECRÉTARIAT AUX AFFAIRES AUTOCHTONES, *Sivunirmut Agreement*, *supra* note 4.

⁶⁵ In correctional facilities, recreational activities are funded through a reintegration support fund. A program of activities for offenders must propose academic, vocational and personal development activities, work activities — remunerated or not — and sports, socio-cultural and recreational activities. *An Act respecting the Québec correctional system*, *supra* note 29, s. 76. This fund does not cover recreational activities for Nunavik inmates.

⁶⁶ Kuujjuaq holding cells also have a common area.

station, similar renovations also allowed for the addition of a common area for inmates. Although the infrastructure was already in place, it is surprising that funds were allocated to renovate a police station with a common area in Kuujjuarapik when the Court only goes there four times a year.⁶⁷ In light of its observations, the Québec Ombudsman considers that expansion work in Puvirnituaq should have been given priority because of the high occupancy rate. In 2014-2015, the Itinerant Court spent 14 weeks there — or a total of 68 days (excluding youth protection cases). In addition, custody is carried out in Puvirnituaq when there are Court appearances in small Hudson Bay villages where there are no overnight facilities for inmates.⁶⁸

Outdoor courtyard

- 74 Inmates in Puvirnituaq, Kuujjuuaq, Kuujjuarapik and in other Nunavik police stations never have access to a courtyard. This means that they remain indoors for the entire duration of their detention in Nunavik, except when they are handcuffed and escorted to the Courthouse or to a vehicle. However, the *Act respecting the Québec correctional system* stipulates that, unless placed under administrative segregation, all inmates are entitled to one hour of walking or exercise outdoors. A similar stipulation is found in the United Nations' *Minimum Rules for the Treatment of Prisoners*.⁶⁹
- 75 If facilities do not have a courtyard, inmates cannot go outdoors. There is a courtyard in Kuujjuuaq, but it is not used because correctional officers consider it unsafe despite the fence.

Recommendations:

Concerning the lack of outdoor activities

Whereas:

Section 10 of the *Act respecting the Québec correctional system* and rule 23 of the *Minimum Rules for the Treatment of Prisoners* (the Mandela Rules) stipulate that inmates are entitled to at least one hour of outdoor time per day, and this obligation is not upheld in Nunavik;

Kuujjuuaq holding cells and the Kuujjuuaq police station, which share a building, have a courtyard that is not being used and, given its small size, work to secure it would be affordable;

There is no other infrastructure for outdoor activities.

The Québec Ombudsman recommends:

R-9 That the Ministère de la Sécurité publique immediately carry out the work required to make the courtyard of Kuujjuuaq holding cells safe, and for it to be used on a daily basis

⁶⁷ MINISTÈRE DE LA JUSTICE, *Itinerant court services 2014-2015. Côte de la baie d'Hudson et côte de la baie d'Ungava*, Québec. (68 days in Puvirnituaq, 20 days in Kuujjuarapik, and 20 days in Salluit)

⁶⁸ *Id.*

⁶⁹ An inmate who is not working outdoors or who is not working outside the facility is entitled to walk or do physical exercise outdoors for 1 hour each day, unless the inmate is confined in administrative segregation. *Regulation under the Act respecting the Québec correctional system*, *supra* note 58, s. 10. The UN's Minimum Rules take a similar view: Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits. UNITED NATIONS, COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE, *supra* note 30, Rule 23.

by all inmates under the responsibility of the Direction générale des services correctionnels as soon as it is completed.

R-10 That the Ministère de la Sécurité publique provide for a secure courtyard in all projects to build or expand infrastructure which it owns, and ensure that the Kativik Regional Government do likewise for police stations where inmates are kept in custody.

Personal belongings

- 76 At the Puvirnituaq police station and some other police stations in smaller villages, personal belongings are stored in the shower area. Some of the personal belongings are on the ground in torn bags. So that the limit on the allowable quantity of personal items is respected, when a relative or friend brings clothes in anticipation of a trip back to Amos, the correctional officer asks the inmate to choose the personal belongings that will be replaced by the new items.⁷⁰
- 77 It should be noted that when correctional officers arrive with the Itinerant Court on Monday, the personal belongings of people arrested by police officers in the previous days often get mixed up and are not labelled. The correctional officers must then try to match the items with their owners. This situation is a problem because some inmates lose their belongings due to administrative mismanagement.
- 78 In Kuujuaq, there is more space and a room with a labelled locker for each inmate, which makes orderly storage easier.

Recommendation:

Concerning personal belongings

Whereas:

Under the *Biens personnels de la personne incarcérée* ministerial instruction, correctional facilities are always responsible for inmates' personal belongings that are kept in lockers, and the same should be true for Nunavik detention cells;

The Kativik Regional Police Force and correctional officers seem to follow different rules for storing inmates' personal belongings, which leads to losses.

The Québec Ombudsman recommends:

R-11 That the Ministère de la Sécurité publique ensure that inmates' personal belongings are stored in an appropriate place and that it take the necessary measures with the Kativik Regional Government to set up a common storage system in all correctional facilities, including inventory.

Safety and cameras

- 79 There is a camera in every cell at the Puvirnituaq and Kuujuaq police stations, and the images from these cameras are transmitted to the police officers. Correctional officers also have access to the screens on which the images are shown. Despite there being a small wall in front of the sanitation facilities, the camera angle provides a very clear view of inmates relieving themselves, which is in violation of their dignity.

⁷⁰ DIRECTION GÉNÉRALE DES SERVICES CORRECTIONNELS, *Instruction 2 1 10. Biens personnels de la personne incarcérée*, Québec, 2009, Annex 1.

- 80 In the opinion of the Québec Ombudsman, the right to dignity includes respect for inmates' privacy, especially when inmates are using the washroom.⁷¹

Recommendation:

Concerning surveillance of the premises

Whereas:

Several police station cells have cameras pointed directly at the sanitation facilities, and police and correctional officers have access to the images transmitted;

This situation is in violation of inmates' human dignity.

The Québec Ombudsman recommends:

R-12 That the Ministère de la Sécurité publique immediately take the necessary measures with the Kativik Regional Government to change the camera angle so as to block visual access to the sanitation facilities or, at the very least, limit camera use in cells not used for inmates presenting a risk of suicide or in crisis.

Complaint examination system

- 81 The Québec Ombudsman noticed that there were no complaint forms available for inmates who feel that their rights are being violated. Therefore, contrary to what is stipulated in the *Regulation under the Act respecting the Québec correctional system*, inmates' grievances are neither noted nor documented.⁷²
- 82 Instead, Nunavik inmates are unaware of the complaint filing and examination process. The Québec Ombudsman considers that information concerning the complaint examination system should be clearer in Nunavik detention facilities.

Recommendation:

Concerning the complaint examination system

Whereas:

Contrary to sections 62 and following of the *Regulation under the Act respecting the Québec correctional system*, Nunavik inmates' right to file a complaint is hindered, if not violated.

The Québec Ombudsman recommends:

R-13 That the Ministère de la Sécurité publique make the standard complaint form or an adapted version translated into Inuktitut available and ensure that all complaints are examined proficiently and in accordance with the *Regulation under the Act respecting the Québec correctional system*.

⁷¹ *Charter of Human Rights and Freedoms*, *supra* note 49, s. 4: "Every person has a right to the safeguard of his dignity, honour and reputation." UNITED NATIONS, COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE, *supra* note 30, Rule 15: The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner."

⁷² *Regulation under the Act respecting the Québec correctional system*, *supra* note 58, s. 62 and following.

Telephone calls

- 83 Generally speaking, Nunavik inmates have access to a telephone. However, during our visit, the Québec Ombudsman's telephone number was not posted in the detention cells, and when it was, as was the case in Kuujuaq holding cells, the information was inaccurate. This prevents inmates from reaching the Québec Ombudsman toll free. Following the visit by the Québec Ombudsman, the Kativik Regional Police Force agreed to post the telephone number in its police stations, and correctional services have confirmed that they have corrected the information, which the Québec Ombudsman has been able to verify.

Recommendation:

Concerning telephone calls

Whereas:

To ensure that the rights of inmates are upheld, it is important for them to be able to reach the Québec Ombudsman free of charge from all Nunavik correctional facilities, as is the case in all correctional facilities and holding cells in the rest of Québec.

The Québec Ombudsman recommends:

R-14 That the Ministère de la Sécurité publique take the necessary measures to ensure that the toll-free number for the Québec Ombudsman, for exclusive use by inmates, is permanently on display in all correctional facilities in Nunavik, as is the case in the rest of Québec.

Anti-suicide equipment (intervention equipment)

- 84 Suicide attempts are common among heavily intoxicated Inuit inmates. When a police officer intercepts suicidal individuals or people who are heavily intoxicated, his or her first reflex is generally to take them to a hospital or to the village clinic to be detained in a solitary cell. A social worker then assesses the risk of suicide as soon as the individuals are able to understand what is happening. These individuals are kept under constant supervision, 24 hours a day, by a hospital staff member or civil guardian.
- 85 But if the hospital or clinic cells are already at full capacity, the person is taken to the police station. However, there is little to no anti-suicide equipment (anti-suicide vests and mattresses) in correctional facilities, and based on the statements collected, the existing equipment is very rarely used. The Québec Ombudsman also feels that the cells used for holding suicidal individuals were not intended for this type of detainee. Finally, the various people responsible for monitoring these individuals (correctional officers, police officers or civil guardians) have different levels of training for this type of intervention.

Recommendations:

Concerning anti-suicide equipment

Whereas:

A lack of anti-suicide equipment was noted;

The Sivunirmut Agreement stipulates that the Direction générale des services correctionnels is responsible for purchasing and shipping to Nunavik the equipment employed in interrupting attempted suicides, used within the framework of custodial activities;

Bringing the training offered to people responsible for inmate custody up to standard would help ensure inmate safety, particularly during a crisis.

The Québec Ombudsman recommends:

R-15 That the Ministère de la Sécurité publique immediately ensure that sufficient quantities of anti-suicide equipment are available at all times.

R-16 That the Ministère de la Sécurité publique, no later than June 30, 2016, ensure that all correctional officers overseeing the custody of inmates in Nunavik receive adequate, up-to-date training in means of intervention in cases of suicide or suicide attempts, including the use of anti-suicide equipment.

Shared safe custody responsibilities

- 86 In some cases, the Québec Ombudsman noticed that the responsibilities shared between Ministère de la Sécurité publique correctional officers and Kativik Regional Police Force officers needed to be clarified, since a misunderstanding of the respective roles as stipulated in the Sivunirmut Agreement has prejudicial effects on inmates. The reality in the field has significantly changed since the Sivunirmut Agreement was adopted. Clarifying — or redefining — the responsibilities for each, taking current detention conditions into account, is essential in ensuring that the residual rights of inmates are upheld.
- 87 Furthermore, the relatively short duration of stays in these facilities should not be used to justify the existence of such conditions. People incarcerated there should not have to fear for their health and safety during their stay.

Recommendation:

Concerning shared safe custody responsibilities

Whereas:

The responsibilities shared between Ministère de la Sécurité publique correctional officers and Kativik Regional Police Force officers are unclear, and this may have have an impact on whether inmates' residual rights are upheld;

Currently, the Sivunirmut Agreement is not respected in its entirety;

The Direction générale des services correctionnels is required to ensure that detention conditions for inmates under its responsibility are humane and comply with the law even though it has delegated certain responsibilities to the Kativik Regional Government under the Agreement.

The Québec Ombudsman recommends:

R-17 That the Ministère de la Sécurité publique clarify its responsibilities and those of the Kativik Regional Government, that it enter into an agreement with the latter concerning a procedure for upholding the Sivunirmut Agreement and that it establish a more effective and comprehensive monitoring and accountability mechanism with the Kativik Regional Government.

1.2 Incarcerating Inuit in Southern Québec correctional facilities

1.2.1 Absence of correctional facilities in Nunavik

- 88 There are no correctional facilities in Nunavik. However, as early as 1975, the James Bay and Northern Québec Agreement stipulated that “as quickly as possible [...], the appropriate detention institutions shall be established within the judicial district of Abitibi so that Inuit should not be, unless circumstances so require, detained, imprisoned or confined in any institution below the 49th parallel.”⁷³
- 89 Then, in 2002, under the Partnership Agreement on Economic and Community Development in Nunavik, the Government of Québec committed to building a correctional facility in Nunavik by December 31, 2005, that could accommodate 40 inmates. The Agreement stated that Québec favoured the institution of smaller correctional facilities in various regions, when possible, in order to foster the gradual reintegration of offenders.⁷⁴ The city of Inukjuak was to have the first facility.
- 90 However, despite this commitment, in 2007, as part of the Sanarrutik Agreement, the Government of Québec, the Makivik Corporation⁷⁵ and the Kativik Regional Government had a change of heart, choosing not to build a correctional facility in Nunavik and to continue Inuit incarceration in the South.⁷⁶ According to the statements collected, the estimated \$300 million cost and the reluctance of several communities to have a correctional facility in their own backyard contributed to the decision.
- 91 As an alternative, the parties to the Agreement pledged to create the Safer Communities Program (“Ungaluk Program”). This program involves investments of \$10 million per year indexed over a period of 22 years, for a total of approximately \$315 million for the creation of programs to prevent and fight crime, promote the health and safety of Nunavik communities, help crime victims and improve correctional services for Inuit (social programs).⁷⁷ The three parties to the Agreement then concurred that this alternative fulfilled the Government of Québec’s commitment to build a correctional facility. Note that the Ungaluk Program will be discussed in Chapter 3 of this report, in the section on social reintegration.

1.2.2 Snapshot of Inuit detention in Southern Québec correctional facilities

- 92 As a result of the Sanarrutik Agreement referred to in the preceding paragraphs, Nunavik citizens will continue to be incarcerated in Southern Québec, away from their community, where contact with their relatives is limited. Therefore, when a judge orders the incarceration of people who live in one of Nunavik’s 14 communities, they are incarcerated in one of the 20 correctional facilities south of the 49th parallel — more than 1,000 km away from their home.
- 93 The following data illustrate the number of Inuit admitted into Québec’s correctional network and the average length of their incarceration in the past few years.⁷⁸

⁷³ SECRÉTARIAT AUX AFFAIRES AUTOCHTONES, *James Bay and Northern Québec Agreement*, *supra* note 17.

⁷⁴ SECRÉTARIAT AUX AFFAIRES AUTOCHTONES, MINISTÈRE DU CONSEIL EXÉCUTIF, *Partnership Agreement on Economic and Community Development* (Sanarrutik Agreement), Makivik Corporation, Kativik Regional Government and the Québec Government, April 9th 2002, [[electronic resource](#)].

⁷⁵ See note 16 for a description of the Makivik Corporation.

⁷⁶ SECRÉTARIAT AUX AFFAIRES AUTOCHTONES, MINISTÈRE DU CONSEIL EXÉCUTIF, *Amendment No. 3 to the Partnership Agreement on Economic and Community Development in Nunavik* (Sanarrutik Agreement), Makivik Corporation, Kativik Regional Government and the Québec Government, August 9th 2006, [[electronic resource](#)].

⁷⁷ *Id.*, s. 4.4.3. ; MAKIVIK CORPORATION, *Ungaluk Program* [[electronic resource](#)].

⁷⁸ Data received from Direction générale des services correctionnels, October 2015.

Table 1: Number (%) of Inuit admitted into correctional facilities (detainees/awaiting trial)

Status	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015
Sentenced (detainee)	107 (19%)	124 (19%)	104 (14%)	108 (15%)	115 (14%)	97 (11%)
Awaiting trial	442 (81%)	532 (81%)	651 (86%)	617 (85%)	704 (86%)	801 (89%)
Total	549	656	755	725	819	898

Table 2: Average duration of stay (days) for Inuit awaiting trial⁷⁹

Nation	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015
Entire inmate population	23.3	21.7	23.4	25.1	25.8
Inuit	35.2	25.1	26.3	29.9	43.4

94 These tables reveal that the annual number of Inuit admitted into correctional facilities has increased by approximately 64% over the last six years, going from 549 to 898. Furthermore, the average stay for Inuit awaiting trial has increased by 8.2 days in five years and is 17.6 days longer than for the rest of the inmate population.

95 The distribution of Inuit in each of the 20 correctional facilities in Québec is detailed below. Women from Nunavik are generally incarcerated at the Maison Tanguay facility in Montréal. The Ministère de la Sécurité publique has announced that they will be transferred to the Leclerc facility in Laval as of February 2016.⁸⁰ Men sentenced to fewer than two years generally serve their time at the Saint-Jérôme correctional facility.⁸¹ Those awaiting their sentence are usually placed under preventive custody at the Amos correctional facility.

⁷⁹ *Id.*

⁸⁰ See the information in note 21.

⁸¹ DIRECTION DE LA RECHERCHE DES SERVICES CORRECTIONNELS, *2007-2008 Correctional profile. Native Persons Committed to the Custody of Québec's Correctional Services*, Québec, 2011 [[electronic resource](#)], p. 84-85.

Table 3: Number of Inuit detainees in correctional facilities in Québec

Nb Facility	Period					
	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015
Amos	169	179	294	253	242	238
Baie-Comeau	0	0	1	2	0	4
Chicoutimi	0	0	0	0	0	1
Hull	5	11	5	10	19	36
Montréal	2	4	2	4	1	2
Québec (Women)	0	0	0	0	1	0
Québec (Men)	2	0	0	0	1	0
Rivière-des- Prairies	35	39	44	65	59	59
Roberval	5	4	3	6	4	9
Sept-Îles	0	1	1	1	2	0
Sherbrooke	1	0	2	1	4	1
Sorel	1	1	0	0	0	0
Saint-Jérôme	280	353	330	306	407	397
Tanguay	45	62	71	77	79	149
Trois-Rivières	4	1	2	0	0	2
Valleyfield	0	1	0	0	0	0
Total	549	656	755	725	819	898

96 It should be noted that for 2014-2015, the Amos correctional facility had the highest rate of overcrowding in Québec's correctional network.⁸² This means that nearly all inmates at this facility — Inuit included — are crammed three per cell into a space originally intended to hold one person. The Québec Ombudsman spoke out against this situation many times, arguing that the facility needed to be replaced with a larger, more modern one. Construction of the new facility has begun; it should open in late 2016. Construction was first announced back in 2008.

1.2.3 Detention conditions not adapted to the reality of Inuit in Southern Québec correctional facilities

97 As the Correctional Ombudsman of Québec, the Québec Ombudsman visits most of the correctional facilities at least once a year in order to observe the detention conditions of inmates, hear their comments and speak with management. During every visit, it always

⁸² Occupancy rate in Amos based on operational capacity for 2014-2015: 133.2% (network average: 117.4%). Data received from Direction générale des services correctionnels, April 2015.

takes a closer look at Aboriginal and Inuit detainees. Through these visits and discussions with specialized stakeholders, the Québec Ombudsman has noted that Inuit grapple with difficult situations during their incarceration in the South.

Language barrier

- 98 Inuktitut is the mother tongue for 97.2% of Nunavimmiut.⁸³ Although several Inuit have adopted English as a second language, and a growing number of them speak French as well,⁸⁴ many still speak Inuktitut only.⁸⁵
- 99 In terms of staff, with a few rare exceptions, there are no Inuit or Inuktitut-speaking officers working in Québec's correctional facilities. Therefore, a unilingual Inuit incarcerated in the South faces the shock experienced by most first-time inmates, as well as a practically insurmountable language barrier. Although correctional services and some facilities have taken the initiative to have documents translated,⁸⁶ there are few information booklets or forms available in English — and even fewer in Inuktitut.
- 100 It therefore becomes difficult for Inuit to assert their most basic rights since they cannot express themselves or explain these rights. Explaining that they are innocent, need immediate medical attention or have suicidal thoughts to an officer who does not understand them is daunting for Inuit inmates.
- 101 Moreover, during the investigation it conducted, the Québec Ombudsman learned that at the Maison Tanguay correctional facility, female Inuit who do not speak French are not allowed to work the laundry detail.⁸⁷ The Québec Ombudsman considers that this situation must be rectified.⁸⁸

Recommendations:

Concerning the language barrier

Whereas:

Several Nunavimmiut speak only Inuktitut;

With a few rare exceptions, there are no Inuit or Inuktitut-speaking officers working in Québec correctional facilities;

Few documents on the rights and obligations of inmates are available in Inuktitut.

⁸³ MAKIVIK CORPORATION, KATIVIK REGIONAL GOVERNMENT et al., *Parnasimautik Consultation Report, On the Consultations Carried Out with Nunavik Inuit in 2013*, November 2014 [[electronic resource](#)], p. 10.

⁸⁴ French has been increasingly popular as the language used in public institutions and as the second language taught in schools. School is taught entirely in Inuktitut until the third grade, at which time Inuit students choose to study in either French or English. Until the late 1970s, a great majority of students chose English. Today, about half of them choose French. *SECRETARIAT AUX AFFAIRES AUTOCHTONES, Amérindiens et Inuits. Portrait des nations autochtones, supra* note 13.

⁸⁵ DIRECTION DE LA RECHERCHE DES SERVICES CORRECTIONNELS, *Les Autochtones confiés aux Services correctionnels, supra* note 81, p. 84-85.

⁸⁶ Several forms are available in English, such as forms on discipline, ratings, visits, temporary absences, and on how complaints are handled. In the Saint-Jérôme facility, documents about rules of conduct and the services offered to Inuit have been translated into Inuktitut. The Commission québécoise des libérations conditionnelles has also taken the initiative of having some of its forms translated into Inuktitut.

⁸⁷ The Montreal School Board oversees the laundromat program at Maison Tanguay, and the teaching material is supposedly available in French only.

⁸⁸ As mentioned in note 21, when female inmates from Maison Tanguay are moved to the Leclerc facility in Laval, which is scheduled to happen in February 2016, this could be the perfect time to correct the situation.

The Québec Ombudsman recommends:

R-18 That the Ministère de la Sécurité publique have the main information documents and forms used by Inuit inmates translated into Inuktitut no later than June 30, 2016, and provide an interpreter for special interventions.

R-19 That the Ministère de la Sécurité publique, no later than March 31, 2016, take the necessary measures to ensure that Inuit of the appropriate classification have access to the same work detail as the rest of the inmate population with a similar classification.

Cohabitation of populations

- 102 Contrary to the two main correctional facilities which receive male Inuit (Amos and Saint-Jérôme), the women's correctional facility (Maison Tanguay) chose not to create an area exclusive to Inuit. Female Inuit inmates are therefore mixed in with the rest of the inmate population. According to the staff members we interviewed, these women sometimes fall victim to discrimination, and even, violence, from other inmates.
- 103 Furthermore, several correctional facility staff members say that Inuit are more likely to follow rules than most inmates. Inuit are generally well disciplined. They are courteous and respectful towards other inmates and correctional officers. The staff of the correctional facilities believe that there is a link between the delinquent behaviour that led to incarceration for some Inuit inmates and alcohol or drug consumption. Because exposure to substances is limited in prison, Inuit behaviour often contrasts with the at times delinquent behaviour of the rest of the inmate population.
- 104 The Québec Ombudsman considers that all female Inuit inmates should be incarcerated at the new correctional facility in Amos. Grouping female Inuit inmates (and eventually male Inuit inmates; see recommendation 21) could contribute to their social reintegration by concentrating the correctional network's expertise regarding its Inuit clientele. Such grouping would also allow incarcerated Nunavimmiut to be closer to their family.

Away from family and the community

- 105 Incarcerating Inuit in Southern Québec correctional facilities deprives them of the support of their family and community, which plays a key role in social reintegration. Because of the high transportation costs, inmates' relatives generally rarely if ever visit them during their incarceration. Furthermore, Aboriginals in the correction system statistically have a higher tendency to claim dependents than non-Aboriginals do (45% compared to 18% for non-Aboriginals), and the number of dependents they claim is generally higher as well.⁸⁹
- 106 Inuit are also under-represented in terms of temporary absences, which allow inmates to leave the correctional facility before the end of their sentence for specific reasons, such as a visit with their family. Only 5% of Nunavimmiut exercise this right during their stay, which is no surprise given that most are incarcerated in Saint-Jérôme, Amos or at Maison Tanguay (Montréal), away from their families.⁹⁰
- 107 Telephone calls are often the only means of communicating with family. Although long-distance fees are the same in Nunavik as they are across Canada, the charges can add up quickly, and all calls are long distance⁹¹ given the geography.

⁸⁹ DIRECTION DE LA RECHERCHE DES SERVICES CORRECTIONNELS, 2007-2008 *Correctional profile*, supra note 81, p. 57.

⁹⁰ *Id.*, p. 72.

⁹¹ For prepaid long-distance calls in Canada made from a Débitel device, the first minute costs \$1.50, and each additional minute costs \$0.50. The rates for collect calls depend on the time of day and the distance. When placing a call within a 128-km radius (80 miles) between 8 a.m. and 6 p.m., the first minute costs \$2.50, and each additional minute

- 108 Although it will eventually be possible for non-inmates to purchase telephone minutes, this is not currently the case, making it more difficult for Inuit inmates to reach family members and relatives.
- 109 The absence of roads to Québec's correctional facilities makes it more difficult for family to visit. Given that several correctional facilities have a videoconferencing system, the Québec Ombudsman considers that correctional facilities should use this tool to offer virtual family visits. Secure spaces could be created in correctional facilities with a significant Inuit population and agreements could be entered into with organizations in Nunavik that have access to the appropriate technologies so that inmates and their loved ones can connect virtually.⁹² Although not perfect, this solution would at least allow Inuit to have contact with their families, especially since on average, Inuit are detained longer than other inmates (an average of 93 days for those awaiting trial and 43 days for those sentenced, versus 75 days and 26 days respectively for the overall inmate population).⁹³

Social reintegration programs available in correctional facilities

- 110 It bears pointing out that correctional services should promote social reintegration.⁹⁴ The Québec Ombudsman is pleased to see that programs adapted to Inuit have been developed for the three main correctional facilities in which they are incarcerated (Amos, Saint-Jérôme, Maison Tanguay).⁹⁵ It goes without saying that reintegration programs and support must be maintained and enhanced when possible, and offered in an adapted language. Furthermore, in order to take into consideration the increase in the female Inuit inmate population and in compliance with the *Act respecting the Québec correctional system*, new programs and services that take the needs specific to Inuit women into account should also be developed.⁹⁶

costs the same for each Bell customer, namely \$0.91. Data received from Direction générale des services correctionnels, September 2015.

⁹² These systems are mainly used during facility management meetings or during sittings of the Commission des libérations conditionnelles du Québec.

⁹³ Data for 2014-2015 received from Direction générale des services correctionnels, October 2015.

⁹⁴ *An Act Respecting the Québec correctional system*, *supra* note 29, s. 1.

⁹⁵ Currently, the Amos correctional facility mainly receives Inuit awaiting trial, whereas male offenders who received a sentence are normally transferred to Saint-Jérôme. Women offenders are detained at Maison Tanguay (as of February 2016, they will be at the Leclerc facility in Laval). See Appendix for the list of programs intended for Inuit in correctional facilities.

⁹⁶ *An Act respecting the Québec correctional system*, *supra* note 29, s. 21 and following.

2 The administration of justice in Nunavik

111 This Chapter presents the trajectory of Nunavimmiut through the Québec judicial and correctional systems, from arrest to incarceration. It also discusses the human and financial impacts associated with the multiple transfers experienced by Nunavik offenders. Finally, the Québec Ombudsman discusses the management costs associated with transfers and suggests ways to reduce — and therefore minimize — the costs (human and financial) stemming from current procedures.

2.1 From arrest to incarceration: Trying times for Nunavimmiut

112 When someone is arrested in a Nunavik village by a Kativik Regional Police Force officer, he or she is taken to a police station cell.⁹⁷ If the police officers decide to detain the accused for a court appearance, he or she is taken to the justice of the peace. People arrested in Nunavik (or any other remote area) usually make a first appearance by telephone or videoconference, if the technology is available.⁹⁸ This appearance should occur as soon as possible.⁹⁹

113 If, during the court appearance, the criminal and penal prosecuting attorney has no objection, offenders are released — with or without conditions — and the next phases of the judicial process take place during upcoming Itinerant Court sessions in their village or region.

114 If, however, the prosecutor objects to their release, offenders are placed under preventive custody and the judge or justice of the peace issues a remand warrant.¹⁰⁰ Remand warrants summon police officers to turn over the accused to the director of a correctional facility or its representatives — the correctional officers — who must ensure that the accused is present for his or her bail hearing. As detailed in the following section, there are various factors involved in determining the time and place where police officers turn over the accused to correctional officers.

115 The Criminal Code stipulates that a bail hearing for someone awaiting trial must take place within three days of the arrest,¹⁰¹ unless the accused consents to a longer time frame. However, since bail hearings occur in Abitibi-Témiscamingue, the remand warrant's three-day deadline has in most cases already expired by the time the accused faces the judge. This is in violation of the Criminal Code.¹⁰²

⁹⁷ The Kativik Regional Police Force is stationed in each community where it offers regular police services. Each police station includes three police officers, except in Kuujjuarapik, Inukjuak, Salluit, Puvirnituq and Kuujjuaq, which respectively include four, five, six, seven, and eight police officers. KATIVIK REGIONAL GOVERNMENT, *2014 Annual Report*, Kuujjuaq, 2015 [[electronic resource](#)], p.104.

⁹⁸ In addition to the justice of the peace and the accused, the criminal and penal prosecutor, the accused's counsel, if any, a clerk and an interpreter — if one was requested in advance — also attend the hearing. See JUDICIARY COURTS OF QUÉBEC, Court of Québec, *Règles de fonctionnement pour les comparutions par voie électronique*, revised on July 13 2012 [[electronic resource](#)].

⁹⁹ Persons arrested in or near a large urban centre must appear within 24 hours of their arrest (*Criminal Code*, R.S.C., 1985, c. C-46, s. 515 (2.2)) (hereafter « Cr. C. »); *R. v. Simpson* [1994] 88 C.C.C. (3d) 377 [Nfld. C.A.].

¹⁰⁰ S. 516, 537 and Form 19 Cr. C. — Warrant of remand

¹⁰¹ S.516 (1) Cr. C.

¹⁰² *Id.* Due to delays caused by transportation, weather conditions and the logistics of inmate transfers from a police station in Nunavik to the Amos courthouse, the bail hearing may be held outside the legal time limit.

2.2 The human and financial impact of repeated transfers

A long journey

- 116 Someone arrested in Nunavik for whom a remand warrant has been issued during the court appearance appears before a Court of Québec judge from the Abitibi district for his or her bail hearing. Depending on the itinerary and circumstances, the time between the issuance of a remand warrant and the accused's bail hearing may range from one day to two weeks. Obviously, the human and financial impacts associated with transferring offenders are significant, especially when, following his or her bail hearing, the accused is released and travels back home at the cost of the public purse.
- 117 When someone is arrested in Nunavik and is required to go south for the remaining legal proceedings, there are many possible scenarios.

Scenario 1 – Transit through Montréal and Saint-Jérôme

- 118 Generally, an offender who is sent to Amos transits through Montréal. Since there are no roads connecting the Nunavik villages to each other or to Southern Québec, travel takes place by plane. Presently there are no commercial flights between Nunavik and the judicial district of Abitibi. The accused must therefore transit through Pierre-Eliot-Trudeau airport with a police escort.
- 119 There are several factors to take into consideration when evaluating transfer times. First, it is not uncommon that, once the remand warrant has been issued, it is too late for a commercial flight and departure needs to be postponed to the next day. Also, depending on the village of departure, the plane may make several stops in different Nunavik agglomerations. For instance, a flight leaving Salluit — the northern-most village — makes up to seven stops before landing in Montréal. Each layover may be thirty minutes to a few hours long.
- 120 North of the 55th parallel, weather conditions often affect air services. A village may be inaccessible for days at a time due to poor weather. The few police officers on site and the need for them to remain in a village because there is an emergency can also delay a transfer, as no police officers would be available to escort the accused.
- 121 Once at the Montréal airport, the Kativik Regional Police Force officer turns the accused over to correctional services, usually correctional officers from the Saint-Jérôme correctional facility. After spending a few hours to several days in this facility, the accused is generally escorted to Mont-Laurier, where Amos correctional officers take over and escort the accused to the city's correctional facility.¹⁰³
- 122 The court appearance or bail hearing in Amos is therefore delayed until the detainees arrive.¹⁰⁴ If, following the bail hearing, they are to remain incarcerated and there is room for them, Inuit awaiting trial are usually incarcerated at the Amos correctional facility. They then travel to Nunavik with the Itinerant Court staff for their trial. It should be noted that if the Amos correctional facility is overcrowded, they are transferred to another correctional facility.

¹⁰³ As is the case with inmates everywhere in Québec's correctional system, inmates from Nunavik are moved around from facility to facility across Québec due to overcrowding.

¹⁰⁴ When an inmate misses a hearing date entered on the roll due to logistics, judges are usually understanding and postpone the case without casting blame on the accused.

- 123 In 2014, the annual costs incurred by the Kativik Regional Police Force for escorting detainees awaiting trial reached \$1,798,149 and the associated custody costs were \$1,004,289¹⁰⁵ for a total of \$2,802,438 for the year.

Table 4: Annual costs associated with the transportation and custody by the Kativik Regional Police Force of Nunavimmiut awaiting trial

Expense categories	Amounts
Transportation	\$1,798,149
Custody services	\$1,004,289
Total	\$2,802,438

Scenario 2 – Transit through Val-d’Or

- 124 In this second scenario, the Itinerant Court plane brings correctional officers and certain inmates (8 to 10 for Puvirnituaq and up to 16 for Kuujuaq), along with Court personnel, on the flight back to Abitibi-Témiscamingue. This generally occurs on Friday, at the end of the Court week.¹⁰⁶

- 125 Even if there are generally no layovers for this flight and there are rarely any delays, weather conditions can delay the trip back to Val-d’Or by a few hours to a few days. Once in Val-d’Or, correctional officers escort the inmates to the Amos correctional facility by police van. Offenders are then usually taken to the Amos Courthouse for their court appearance.

Scenario 3 – Chartered flights during a week of Itinerant Court sessions

- 126 During a week of Itinerant Court sessions in a village, correctional services may charter small planes to carry people who have been sentenced or whom the judge has ordered to remain in preventive custody,¹⁰⁷ usually to Abitibi-Témiscamingue. This allows correctional services to reduce overcrowding in the detention cells of the village where the Itinerant Court is sitting. Either way, by the end of the week, there is not enough room on the Itinerant Court plane to bring back everyone who made a court appearance.¹⁰⁸

- 127 These chartered planes usually have nine seats, including three for other correctional officers of the Amos correctional facility. There is therefore enough room for a maximum of six offenders. In 2014-2015, correctional services used 53 charters for this type of transport, for a total of \$596,900.¹⁰⁹

¹⁰⁵ KATIVIK REGIONAL GOVERNMENT, 2014 Annual Report, supra note 97, p. 103.

¹⁰⁶ However, it is not unusual for planes to run out of seats, and thus police officers must escort the last inmates back.

¹⁰⁷ Convicted offenders are normally transported to the Saint-Jérôme correctional facility.

¹⁰⁸ In its 2014 annual report to the Kativik Regional Government, the Direction générale des services correctionnels stated that: [TRANSLATION] “following the Québec Ombudsman’s intervention regarding holding cell accommodations in police stations [...] the Ministère de la Sécurité publique made efforts to manage hearing travels in a different way [...]. Therefore, additional trips have been organized, thus considerably reducing the number of spaces used [...] particularly at the [...] Puvirnituaq police station [...]”. See DIRECTION GÉNÉRALE DES SERVICES CORRECTIONNELS, Annual report, supra note 40.

¹⁰⁹ Data received from Direction générale des services correctionnels, August 2015. It should be noted that no fewer than 46 of the 53 additional flights to Hudson Bay in 2014-2015 were chartered.

2.3 Management costs associated with transfers

- 128 If, after the bail hearing, the judge decides that the accused must remain in detention, preventive custody generally takes place at the Amos correctional facility. However, the person awaiting trial has to return north with the Itinerant Court for the trial and sometimes before for court appearances. In 2014-2015, 369 people were transferred north by plane to appear before the Itinerant Court.¹¹⁰
- 129 In 2014-2015, the overall operating costs of the Ministère de la Sécurité publique during Itinerant Court sessions in Nunavik were of \$779,553 for correctional officers' salaries (including overtime), \$114,900 for meals, \$150,400 for accommodations and \$24,500 for car rentals in Nunavik. There is also an amount of \$1,137,000 paid by the Direction générale des services correctionnels to be added for travelling aboard the Itinerant Court plane (annual cost for transporting staff members and inmates), as well as the cost of 53 additional charters (\$596,900). The total is estimated at \$2,803,253 excluding inter-facility transfers, which the Ministère de la Sécurité publique does not factor in.

Table 5: Expenses incurred by the Ministère de la Sécurité publique in 2014-2015 for the transportation and custody of inmates during Itinerant Court sessions¹¹¹

Expense category	Amounts
Correctional officers' salaries (including overtime)	\$779,553
Correctional officers' meals	\$114,900
Correctional officers' accommodations	\$150,400
Car rentals in Nunavik	\$24,500
Annual cost for transporting staff members and inmates aboard the Itinerant Court plane	\$1,137,000
Additional charters	\$596,900
Total	\$2,803,253
* Excluding costs associated with inter-facility transportation (police vans)	

- 130 Finally, when Inuit inmates incarcerated in the South are released following their court appearance, trial or at the end of their sentence, the Ministère de la Sécurité publique covers the cost of the flight back to their community.¹¹² In 2014-2015, 496 plane tickets were purchased for inmates in the Amos, Saint-Jérôme and Maison Tanguay correctional facilities, for a total of \$870,115. This does not include related costs (accommodations, travel to the airport) — an estimated \$950,913.¹¹³

¹¹⁰ *Id.*

¹¹¹ *Id.* These amounts are higher when the Court sits in smaller villages. For example, a sitting in Salluit incurs considerable costs for the Itinerant Court because its members and correctional services staff do not spend the night there. They return to Puvirnituq. The same goes for most small villages served by the Itinerant Court; at night, everyone — for the most part — returns to Kuujuaq or Puvirnituq.

¹¹² *Regulation under the Act respecting the Québec correctional system, supra* note 58, s. 14. The facility's director covers the cost of returning Nunavimmiut to Nunavik upon their release.

¹¹³ Data received from Direction générale des services correctionnels, August 2015.

Table 6: Snapshot of expenses incurred by the Ministère de la Sécurité publique for the release of Nunavimmiut in 2014-2015

Expense categories	Amounts
Airfare	\$870,115
Related costs (accommodations, road transportation to the airport)	\$80,798
Total	\$950,913

- 131 The cost of transferring Inuit inmates via police van — both from one facility to another and between airports and facilities — should also be taken into consideration. The Direction générale des services correctionnels has, however, informed the Québec Ombudsman that it was unable to isolate the cost of transferring Inuit inmates for court appearances in the North from total current transfers.
- 132 Therefore, excluding costs that the Direction générale des services correctionnels is unable to quantify, annual expenses related to the transportation and incarceration of inmates represent at least \$3,754,166.¹¹⁴ If the annual costs of having the Kativik Regional Police Force transport and detain offenders awaiting trial is included (about \$2,802,438), the Québec Ombudsman considers that these annual expenses add up to \$6,556,604, still excluding costs for inter-facility transfers. As we will see in Chapter 3, these costs will increase in the coming years, as the incarceration and crime rates in Nunavik continue to rise. It should be specified that although the Itinerant Court's operating costs are not specifically discussed, its travel costs are very high. For instance, a trip to Salluit may cost between \$60,000 and \$70,000, and to Puvirnituaq, about \$35,000.

Table 7: Estimated annual cost (Ministère de la Sécurité publique and Kativik Regional Police Force) for the transport and custody of Nunavimmiut in 2014-2015

Expense categories	Amounts
Costs for the MSP	\$3,754,166
Costs for the Kativik Regional Police Force	\$2,802,438
Grand Total	\$6,556,604

- 133 In the opinion of the Québec Ombudsman, in-depth deliberations are necessary in order to find alternatives to the multiple transfers that Nunavimmiut endure and to generate substantial savings while reducing injurious human effects. Potential solutions to that effect are presented below.

¹¹⁴ This amount equals about 1.1% of the Ministère de la Sécurité publique's actual spending in 2014-2015, namely \$326,631,700. MINISTÈRE DE LA SÉCURITÉ PUBLIQUE, *Rapport annuel de gestion 2014-2015*, Québec, 2015 [[electronic resource](#)], p. 67.

2.4 Pending solutions

2.4.1 Creation of an air link between Abitibi-Témiscamingue and Nunavik, and grouping inmates

- 134 The Direction générale des services correctionnels of the Ministère de la Sécurité publique, along with the Kativik Regional Government, have been considering establishing an air link between Abitibi-Témiscamingue and Nunavik for several years.¹¹⁵ The project would consist of creating an aerial connection between the two regions for times when the itinerant Court is not sitting. This would allow correctional officers and Kativik Regional Police Force officers to significantly reduce the costs associated with transfers, along with safety risks. Correctional services representatives would furthermore like for the air link to connect to the Amos airport so as to avoid additional transportation by police van from Rouyn-Noranda (or Val-d'Or).¹¹⁶
- 135 This would mean that Inuit would not have to transit through Montréal, then Saint-Jérôme, just for a bail hearing, as in the following real-life case.

Long travels South

A person is arrested in Puvirnituq on Thursday. The next morning, the police officers fax the file to the office of the Directeur des poursuites criminelles et pénales. A prosecutor analyzes the facts and makes a decision. Following this, there is a telephone appearance at a fixed time, with a formal accusation. The accused makes a court appearance by telephone.

Following the court appearance, he or she can be released and leave the police station. However, if the criminal and penal prosecuting attorney objects to release, a remand warrant is issued and the accused must travel to the Amos Courthouse for the bail hearing. Since there is no air link between Nunavik and Amos, he or she must transit through Montréal, then Saint-Jérôme, to eventually get to Amos.

- 136 In its most recent report to the Kativik Regional Government, the Direction générale des services correctionnels indicated that the air link project was underway.¹¹⁷ However, it should be noted that, given the current overcrowding, the Amos correctional facility does not have the capacity for a large number of inmates. Establishment of the air link should take this fact into consideration.
- 137 Having all Inuit in the correctional system incarcerated in the new correctional facility in Amos — set to open in the fall of 2016, with some 220 places — would optimize the air link, bringing those released each week back north directly rather than having them transit through Montréal. In allowing direct transfers between Nunavik and Amos, the future air link would also make it easier for family and relatives to visit, and there would be no need to go near downtown Montréal, where there is an increased risk of re-offending and homelessness.¹¹⁸

¹¹⁵ This issue also concerns the Ministère de la Justice du Québec and Makivik.

¹¹⁶ According to the information obtained, the airport in Amos did not have the infrastructure required for the air link, and so work was begun to address the situation. In fall 2015, work was performed to restore the runway, and a new de-icing device should be installed in the coming year.

¹¹⁷ DIRECTION GÉNÉRALE DES SERVICES CORRECTIONNELS, *Annual report, supra* note 40.

¹¹⁸ It should be noted that homelessness is currently among the social consequences of the lack of reintegration resources. Inuit make up 10% of Montréal's Aboriginals, but represent 45% of homeless Aboriginals, which includes an equal number of men and women. This phenomenon could be avoided altogether if Inuit were all grouped together

Recommendations:

Concerning the creation of an air link between Abitibi-Témiscamingue (Amos) and Nunavik

Whereas:

There is a need to reduce the negative human and financial impact of transfer management procedures;

The Ministère de la Sécurité publique and the Kativik Regional Government have been planning to implement an air link between Abitibi-Témiscamingue and Nunavik for several years;

An air link would reduce transportation delays and Inuit would not have to transit through Montréal, then Saint-Jérôme, for their legal proceedings in Abitibi-Témiscamingue;

This procedure would be made profitable through the grouping of all Inuit detainees at the future Amos correctional facility;

An air link would help reduce the costs of transfers and ensure better management of public funds;

An air link would reduce the negative impacts of transferring and incarcerating Nunavimmiut in the South and facilitate visits with family and relatives.

The Québec Ombudsman recommends:

R-20 That the Ministère de la Sécurité publique and the partners concerned implement the air link between the Amos airport and Nunavik, and ensure it is operational as soon as the new Amos correctional facility opens in the fall of 2016.

R-21 That Inuit currently detained at the Saint-Jérôme, Maison Tanguay (Laval's Leclerc facility as of February 2016) and elsewhere be, barring some exceptions, incarcerated at the future correctional facility in Amos, and that a large enough section for women be included in the facility.

2.4.2 Videoconferencing system

- 138 Given the distance between Nunavik and most judicial services, appearances before a judge rarely occur the day after the complaint is filed.¹¹⁹ In most cases, the first appearance is done by telephone from the police station, within more or less 24 hours.¹²⁰

at the correctional facility in Amos. MAKIVIK CORPORATION, *Mémoire sur l'itinérance inuit à Montréal. Présenté au Front d'action populaire en réaménagement urbain dans le cadre de la Commission populaire itinérante sur le droit au logement*, Québec, 2012, [electronique resource]. As the Working Group on Justice in Nunavik pointed out in December 2011, grouping Nunavik Inuit awaiting trial and those detained in a single correctional facility would make setting up programs and services suited to Inuit easier. Moreover, it would contribute to the reintegration process by including experts in the Inuit correctional network. WORKING GROUP ON JUSTICE IN NUNAVIK, Report for the period of October 2010 to October 2011, Québec, December 2011, p. 12.

¹¹⁹ Even if the offender is arrested while the Itinerant Court is in the village, the first hearing is held over the telephone because the Court roll is filled to capacity.

¹²⁰ Appearances over the telephone for the Hudson Bay area — including Salluit — are done in conjunction with the Amos Courthouse, while appearances for Ungava Bay are conducted in conjunction with Kuujuaq.

- 139 However, the Québec Ombudsman notes that, following an appearance over the telephone, if the criminal and penal prosecuting attorney objects to the offender's release, the offender is usually transferred to Abitibi-Témiscamingue for the bail hearing. The remand warrant issued in such cases stipulates¹²¹ that Kativik Regional Police Force officers are required to turn the accused over to correctional services pending the detainee's bail hearing.¹²² If the Itinerant Court is present in the village at the time of the arrest, the Amos correctional officers escort the accused to Abitibi-Témiscamingue. If this is not the case, Kativik Regional Police Force officers escort the detainee to Montréal, where he or she is turned over to Saint-Jérôme correctional officers.
- 140 Based on the information gathered, most of the villages' courthouses, with the exception of the Kuujjuaq courthouse, do not have the equipment, technology, bandwidth or qualified staff for effective appearances via videoconferencing.
- 141 Moreover, in addition to inadequate or inaccessible equipment for court appearances via videoconferencing, there is an issue with the wording of the remand warrant. Therefore, even though Kuujjuaq has the videoconferencing equipment and qualified staff needed for appropriate use, the current wording on the remand warrant issued by the courts specifies that the detainee must be "turned over to correctional services" by police services.
- 142 In the absence of a correctional facility (and therefore correctional service representatives), police officers must escort detainees South as quickly as possible to turn them over to correctional officers in order to meet the terms of the remand warrant. If the accused happens to be arrested in a village where Itinerant Court sessions are being held, the remand warrant can theoretically be respected without any transfers by simply turning the accused over to the correctional officers present, who would escort the detainee to the court appearance. However, truth be told, it is difficult to add last-minute sessions to the Itinerant Court roll, as it is already packed.¹²³ Transfers are often unavoidable as a result, regardless of whether or not the criminal and penal prosecuting attorney objects to release.
- 143 In light of this situation, the Québec Ombudsman feels that further efforts should be made to increase the use of videoconferencing or any other adapted technology for all pre-trial stages — including the bail hearing — to be done remotely, without unnecessary transfers,¹²⁴ barring some exceptions. There are significant delays associated with the way things are done now, not to mention costs and the impact on inmates and their relatives, particularly given the unduly long preventive custody caused by transfers to Southern Québec correctional facilities.¹²⁵
- 144 In summary, use of videoconferencing could be increased so as to better serve the administration of justice in Nunavik.¹²⁶ When available, existing technological resources should be shared.¹²⁷ Finally, in addition to being an effective low-cost solution, the use of videoconferencing would allow the Itinerant Court to focus on trials, with preliminary procedures done remotely. This would also allow the Kativik Regional Police Force to

¹²¹ S. 516, 537 and Form 19 Cr. C.— Warrant of remand

¹²² *Id.*

¹²³ COURT OF QUÉBEC, 2012 Public Report, Québec, [[electronic resource](#)], p. 56.

¹²⁴ COURT OF QUÉBEC, *Document d'orientation sur l'utilisation des visioconférences*, Québec, 2015, [[electronic resource](#)].

¹²⁵ It should be recalled that Inuit have the dubious distinction of retaining their accused status for an average of 43.4 days, compared to an average of 25.8 days for the rest of the inmate population. Data received from Direction générale des services correctionnels, October 2015.

¹²⁶ At the Amos correctional facility, appearances by videoconferencing have been used for a little over a year and a half for some appearances or cases of remand with other courthouses in the area. In Saint-Jérôme, steps are reportedly underway to offer appearances by video.

¹²⁷ The Québec Ombudsman noted that this type of system has been in place for about a year in Puvimtuq in youth protection cases. A similar system was scheduled to be set up in December 2015 at the village's courthouse.

optimize the use of its resources in order to serve the Nunavik communities by not having to escort inmates to Southern Québec.

Recommendations:

Concerning the use of videoconferencing and new technologies

Whereas:

Greater use of videoconferencing or another equivalent technological solution would enhance the effectiveness of the administration of justice by preventing long trips for inmates and well as costly court appearances;

The Court of Québec has begun considering the possibility of greater use of new technologies, such as videoconferencing, and other Canadian provinces have implemented similar systems that have proven effective;

The Ministère de la Justice is developing a pilot project to promote greater use of videoconferencing;

The use of videoconferencing would help reduce preventive custody delays for Nunavimmiut (avoiding unnecessary transfers South), as well as the risks inherent in the transfer of inmates;

There are no operational videoconferencing systems at the Puvirnituq courthouse or in the smaller villages of Nunavik;

By not having its officers travel South, the Kativik Regional Police Force could optimize the use of its resources in order to better serve Nunavik communities;

Current ways of operating affect the rights of Nunavimmiut, for instance by making it more difficult to have witnesses at bail hearings due to cost and distance;

Alternatives to the use of videoconferencing as part of legal proceedings need to be provided in order to ensure that the special needs of vulnerable people are taken into account.

The Québec Ombudsman recommends:

R-22 That the Ministère de la Sécurité publique and the Ministère de la Justice assess the needs and conditions for the use of videoconferencing or an equivalent technological system, and implement appropriate technological solutions, in particular, in order to avoid having to transfer inmates during pre-trial legal proceedings. It also recommends that these Departments, if necessary, enter into agreements with partners who already have videoconferencing equipment or an equivalent system with a view to shared use, no later than December 31, 2016.

R-23 That the Ministère de la Sécurité publique and the Ministère de la Justice see to it that an operational videoconferencing system is installed and used, at the very least in Kuujuaq and Puvirnituq, and that the Ministère de la Sécurité publique ensure that correctional facilities which receive Inuit inmates awaiting trial have access to adequate videoconferencing equipment or any other equivalent technology, in a secure location, no later than December 31, 2016.

3 Crime prevention

- 145 Although the main purpose of the investigation in Nunavik was to observe detention conditions and make sure they are reasonable and respectful of inmates' residual rights, the Québec Ombudsman quickly noted that the previously described incarceration problems stemmed from a much broader issue.
- 146 One obvious fact: Inuit are over-represented in the judicial and correctional systems. Over the past few years, this over-representation has continued to grow. In 2015, the number of Inuit in correctional facilities increased by 64% compared to 2010.
- 147 The justice system's mismatch with the reality of Nunavimmiut, but also the scarcity of crime prevention resources — particularly those for treating addiction — contribute to their over-representation in the judicial system and correctional facilities.
- 148 This problem is nothing new. More than 20 years ago, the Inuit Justice Task Force denounced the over-criminalization of Inuit and the misfit between the justice system and Inuit reality. In a report published in 1993, the Group even went so far as to say: "What's wrong with the administration of justice in Nunavik? Just about everything!"¹²⁸
- 149 Furthermore, since 2008-2009, the Working Group on Justice in Nunavik has published several reports¹²⁹ with relevant potential actions whose implementation may have a significant positive impact on the administration of justice and, more globally, on Nunavik communities. For the most part, nothing came of these proposals. Even though the Inuit and government players concerned have been aware of the social problems and legal and correctional issues faced by Nunavimmiut for decades, it is clear that the situation has not changed.
- 150 The lack of concerted action exacerbates Inuit social problems and, as a result, perpetuates stereotypes about Inuit. In order to put an end to this vicious circle, the Québec Ombudsman is convinced that relevant actions are needed to prevent and counter crime in Nunavik. Because court action and incarceration do not have an impact on social problems, it is imperative to go beyond justice system reforms to implement changes that take the social problems and historical, socio-cultural and political reality of these communities into consideration.¹³⁰ To do this, the authorities concerned must take concerted action to promote support for social reintegration and alternative measures to keep cases out of the court. This chapter focuses on these various issues.

3.1 Over-representation of Inuit in Québec's judicial and correctional systems

- 151 The number and complexity of criminal and penal cases heard by the Itinerant Court in Nunavik has continually increased these past few years. The number of cases has gone from 1,144 in 2002 to 3,882 in 2012 — an increase of 239% in 10 years.¹³¹

¹²⁸ INUIT JUSTICE TASK FORCE, *Final report, Blazing the Trail to a Better Future*, Québec, 1993, p. 7.

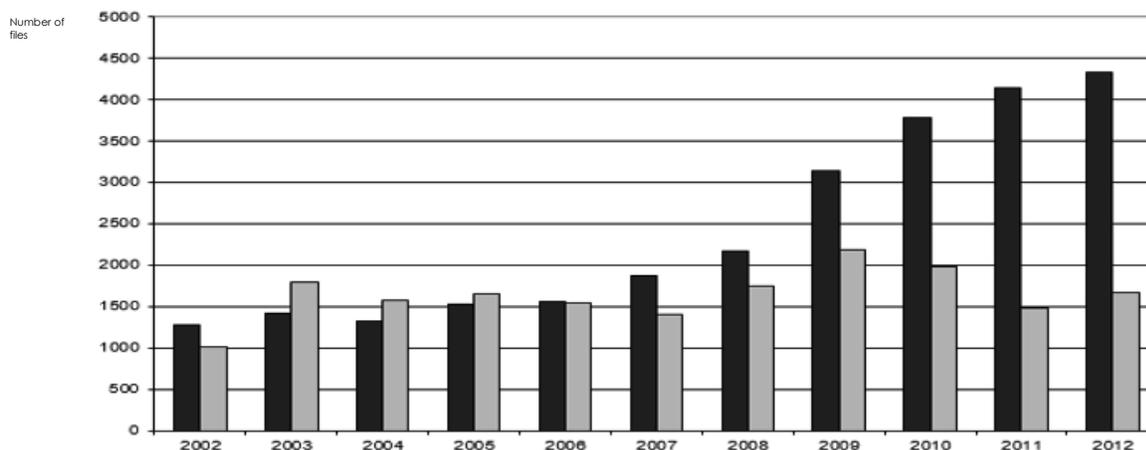
¹²⁹ WORKING GROUP ON JUSTICE IN NUNAVIK, Report for the period of 2008-2009, June 2009; WORKING GROUP ON JUSTICE IN NUNAVIK, Report for the period of April 2009 to September 2010, Québec, December 2010; WORKING GROUP ON JUSTICE IN NUNAVIK, Report for the period of October 2010 to October 2011, *supra* note 118.

¹³⁰ Mylène JACCOUD and Lizzie ALOUPA, *Projet de reconstruction de la régulation sociale au Nunavik. Concept paper presented to the Working Group on Justice in Nunavik*, Montréal, July 2011.

¹³¹ MAKIVIK CORPORATION, KATIVIK REGIONAL GOVERNMENT et al., *Parnasimautik Consultation Report*, *supra* note 83, p. 105; Data received from the Kativik Regional Government, May 2015.

152 The following table, taken from the Parnasimautik Consultation Report (2014), illustrates the increase in number of cases heard by the Itinerant Court in Nunavik compared to those heard on the Cree territory, which has a significantly denser population than Nunavik.¹³²

Table 8: Comparison of Québec Itinerant Court files opened for Inuit and Cree, per year (Number of files/Year)



Note: The black column represents the Inuit population, and the grey one represents the Cree population.

153 Between 2008 and 2012 alone, the number of cases heard by the Itinerant Court in Nunavik increased by 119%.¹³³ To meet demand, the Court added sessions, and the number of weeks in the Court calendar went from 28 to 47¹³⁴ between 2005-2006 and 2014-2015.

154 Nunavimmiut are also over-represented in Québec's correctional system compared to other Aboriginal nations. Although Inuit represent 43% of the Aboriginal inmate population¹³⁵, they only make up 7.6% of Québec's Aboriginal population.¹³⁶ They represent about 4.9%¹³⁷ of the total inmate population, whereas they only make up 0.1% of Québec's population.¹³⁸

¹³² Id.; According to 2012 statistics, the Cree population totalled 17,483, compared with the Inuit population, which totalled about 11,640. SECRÉTARIAT AUX AFFAIRES AUTOCHTONES, « Aboriginal population in Québec 2012 », [\[electronic resource\]](#).

¹³³ WORKING GROUP ON JUSTICE IN NUNAVIK, Parnasimautik, *Justice and Social Regulation. Information Sheet 9*, 2012 [\[electronic resource\]](#).

¹³⁴ SECRÉTARIAT AUX AFFAIRES AUTOCHTONES, Sivunirmut Agreement, *supra* note 4. In 2005, the responsibilities of the Ministère de la Sécurité publique and the Kativik Regional Government were set out in the Agreement on the basis of the regular terms and conditions of the Itinerant Court (up to 28 weeks). In 2014-2015, the Court sat for 35 weeks in Nunavik to hear criminal cases, and 12 weeks in matters of youth protection, for a total of 47 weeks. Data received from the Ministère de la Justice, August 2015.

¹³⁵ Data received from Direction générale des services correctionnels, October 2015. It should be noted that in 2007-2008, Inuit made up 31% of the Aboriginal correctional population. DIRECTION DE LA RECHERCHE DES SERVICES CORRECTIONNELS, *2007-2008 Correctional profile*, *supra* note 81, p. 53.

¹³⁶ In 2011, there were 10,750 Inuit in Nunavik out of 141,915 Aboriginals in Québec. STATISTICS CANADA, *2011 Census*, [\[electronic resource\]](#).

¹³⁷ Data received from Direction générale des services correctionnels, October 2015.

¹³⁸ In 2011, there were 10,750 Inuit in Nunavik out of 7,903,001 people living in Québec. STATISTICS CANADA, *supra* note 136.

Table 9: Daily average per Aboriginal nation in detention (from 2010-2011 to 2013-2014)¹³⁹

Aboriginal nation	Number/Periods				
	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015
Abenakis	1.0	0.0	0.8	0.2	1.0
Algonquian	29.9	24.5	26.4	24.4	31.9
Attikameks	21.5	22.0	19.3	22.3	20.5
Non-Aboriginals	4,299.4	4,398.7	4,756.3	4,859.4	4,824.7
Cree	44.0	32.8	26.9	38.8	45.7
Outside Québec	0.1	0.1	0.0	0.3	0.0
Huron-Wendats	1.8	1.3	1.0	1.0	1.1
Innu	31.8	30.1	25.3	30.1	24.0
Inuit	144.1	145.0	159.7	186.5	213.5
Malecites	0.1	0.1	0.0	0.0	0.0
Micmacs	9.5	8.5	10.9	10.2	9.7
Mohawks	3.8	5.2	2.7	4.6	3.1
Naskapis	1.4	2.3	1.1	1.0	2.2
Total	4,588.4	4,670.6	5,030.5	5,178.8	5,177.7

155 Inuit inmates have the most extensive socio-legal profiles compared to other Aboriginal nations. They commit the most offences against the person (55% of crimes committed by Inuit are offences against the person) and they have the highest rate of domestic violence (37% of Inuit inmates).¹⁴⁰ They receive longer sentences and remain in custody longer as a result.

Court action that does not reduce crime

156 There is nothing to indicate that the situation will improve in the coming years. The crime rate in Nunavik continues to grow, whereas it is dropping for the province as a whole.¹⁴¹ For 2012, the number of criminal acts per 1,000 inhabitants was 535.3 in Nunavik, whereas it was 42.2 for Québec as a whole.¹⁴²

¹³⁹ Data received from Direction générale des services correctionnels, October 2015.

¹⁴⁰ DIRECTION DE LA RECHERCHE DES SERVICES CORRECTIONNELS, *2007-2008 Correctional profile*, supra note 81, p. 88.

¹⁴¹ For example, the crime rate in Nunavik increased by 29% between 2009 and 2011. WORKING GROUP ON JUSTICE IN NUNAVIK, supra note 133.

¹⁴² MAKIVIK CORPORATION, KATIVIK REGIONAL GOVERNMENT et al., *Parnasimautik Consultation Report*, supra note 83, p. 107.

Table 10: Crime statistics¹⁴³

Types of incidents	2009	2010	2011	2012	2013	2014
Domestic violence	840	930	966	904	1,214	1,350
Other types of assault	1,989	2,346	2,060	2,168	2,388	2,726
Driving under the influence	751	933	975	849	825	734
Incidents involving firearms	58	68	36	59	56	36
Drug-related incidents	249	485	461	398	402	309
Violation of rules	1,666	1,540	1,656	1,278	1,361	1,492

157 It has become obvious that the justice system alone is not enough to lower the crime rate in Nunavik. There are insufficient resources to adequately resolve the complex mix of social issues affecting Nunavimmiut, which are at the root of most cases handled by the Itinerant Court.

3.2 Recognizing the mismatch between the justice system and the needs of Nunavimmiut

158 First, the Québec Ombudsman notes that Nunavimmiut have a limited understanding of the justice system as well as of the role and purpose of the Itinerant Court. Furthermore, some individuals do not grasp what is happening to them when they are accused of committing an offence and legal proceedings begin. Traditionally, Inuit would resolve their differences on their own, within their community. When rules specific to Inuit were in place in order to monitor the behaviour of the members of the community. Informal groups of elders and prominent members of the community had the power to decide the fate of people accused of an “offence.”

159 During the investigation it conducted, the Québec Ombudsman noticed that Inuit found guilty of an offence were sent to a Southern correctional facility to “serve their time,” but they did not necessarily grasp all of the subtleties of their case or of the legal language used. The relative lack of attempt to make legal principles understandable to laypeople was striking during certain Itinerant Court sessions, not to mention that indictments and other legal documents are not translated into Inuktitut.¹⁴⁴ From what the Québec Ombudsman saw during the Court sessions, and based on statements from stakeholders and Nunavimmiut, the latter become somewhat passive witnesses of the interpretation of the acts of which they are accused, which sometimes occurred months or years before.¹⁴⁵

¹⁴³ KATIVIK REGIONAL GOVERNMENT, 2013 *Annual Report*, Kuujjuaq, 2013, [[electronic resource](#)], p. 105 ; KATIVIK REGIONAL GOVERNMENT, 2014 *Annual Report*, *supra* note 97, p. 107.

¹⁴⁴ In this regard, the Barreau du Québec, in a report dated January 2015, recommended that legal documents be translated. Several aspects of this report addressed difficulties Nunavimmiut have in understanding the legal jargon used because of the language barrier. Some trials were reportedly cancelled due to a lack of interpreters, while some accused reportedly refused the services of an interpreter even though they do not have command of French or English. BARREAU DU QUÉBEC, *Justice in the Far North*, *supra* note 54.

¹⁴⁵ The stakeholders interviewed believe that, in order to demystify how the legal system works, and to raise awareness of the consequences of committing a crime, it is essential that the people concerned in each community be given an

160 Generally, for Nunavimmiut, access to clear information regarding their rights when facing criminal justice is difficult.¹⁴⁶ In 13 of the 14 Nunavik communities, particularly in Puvirnituaq, there is no permanent legal service (including legal aid) despite it being a hub for justice. Of the two main courthouses in Nunavik — in Puvirnituaq and in Kuujjuaq — only the latter has Court employees on site, including a permanent criminal and penal prosecutor, legal aid attorney and court clerk. Although not the only possible solution, Nunavimmiut's access to adequate information concerning their rights and the legal system could be improved by adding legal services in Puvirnituaq.¹⁴⁷ This would help legal stakeholders better understand Inuit reality and transmit information adapted to Nunavimmiut.

Recommendations:

Concerning access to information and justice services

Whereas:

The number and complexity of the criminal and penal cases heard by the Itinerant Court are constantly growing;

It is difficult for Nunavimmiut to have access to clear and understandable information pertaining to their rights in laypersons' language;

The role and purpose of the Itinerant Court is often difficult for Nunavimmiut to understand;

The Makivik Corporation and Kativik Regional Government consider that it is essential that Nunavimmiut's access to information on the legal system be improved so as to ensure greater understanding and contribute to reinforcing Nunavimmiut's trust in the system.¹⁴⁸

The Québec Ombudsman recommends:

R-24 That the Ministère de la Justice ensure that, starting June 30, 2016, legal stakeholders in Nunavik provide Nunavimmiut in each village with complete, clear information on their rights and how the justice system works, both before and during legal proceedings, and access to an interpreter, as required.

R-25 That, starting December 31, 2016, the Ministère de la Justice improve access to legal services and analyze the relevance of adding permanent legal services similar to those offered in Kuujjuaq on the eastern shore of Hudson Bay (Puvirnituaq), so as to better support Nunavimmiut in the justice system.

opportunity to attend their peers' trials. Moreover, the Québec Ombudsman noted that many people deplore that the Itinerant Court holds hearings in only 8 of the 14 communities, as well as the absence of a judge residing in Nunavik. This results in complex logistics where victims, accused, and witnesses — often police officers — have to travel by air to the nearest village where the Itinerant Court is sitting, with no guarantee of being heard. Sometimes, the Court has to cancel or reschedule a sitting, particularly due to bad weather. Between 2011 and 2013, the Court had to cancel 15 sessions. However, fewer sessions have had to be cancelled or rescheduled in recent years. MAKIVIK CORPORATION, KATIVIK REGIONAL GOVERNMENT et al., *Parnasimautik Consultation Report*, supra note 83, p. 104.

¹⁴⁶ It should be noted that this is also the case in matters of civil law, which is practically non-existent in Nunavik.

¹⁴⁷ Justice committees may eventually play a bigger role in that regard. Although there are services that connect Nunavimmiut to the Itinerant Court, such as courtworkers, they are scanty, and their contribution varies from one community to another. BARREAU DU QUÉBEC, *Justice in the Far North*, supra note 54, p. 6.

¹⁴⁸ MAKIVIK CORPORATION, Leadership Council, *resolution dated June 18, 2015*; KATIVIK REGIONAL GOVERNMENT COUNCIL, KATIVIK REGIONAL GOVERNMENT, *Resolution 2015-47*, May 27, 2015.

- 161 Moreover, it is clear that adapting the law and legal proceedings to the reality of Nunavimmiut has not reduced crime and incarceration in Nunavik.
- 162 Over the years, several reports¹⁴⁹ have indicated that Inuit are over-represented in the correctional system. Furthermore, following decisions by the Supreme Court in the *Gladue* (1999) and *Ipeelee* (2012) cases,¹⁵⁰ the administrators of justice in Canada were required to adjust their practices with a view to adapting justice to the reality of Aboriginal communities. From now on, in certain locations, pre-sentencing reports¹⁵¹ are complemented by a “Gladue report” presented to the judge when it is time to make a decision concerning bail and to set a sentence. The purpose of this complement is to present extenuating circumstances for an Aboriginal delinquent's past and the systemic factors that may have led him or her to be before the Court. The “Gladue report” also aims to propose possible non-custodial sentences so that they are consistent with the specificity of the individual's life.
- 163 Although a certain number of “Gladue reports” were prepared in 2013 and 2014 in Nunavik, and in April 2015 the Ministère de la Justice du Québec set up a program for drafting these reports, Québec is not particularly innovative with regard to applying measures recommended by the Supreme Court. For example, Ontario, Saskatchewan, Yukon and the Northwest Territories have implemented measures in response to the social problems observed in Aboriginal communities.¹⁵² Training and awareness activities for judges, probation officers, courtworkers and attorneys in Aboriginal habits and customs and in the drafting of sentencing reports were also developed; these legal stakeholders therefore generally have solid knowledge of community programs and resources available in the territory concerned.
- 164 That said, and without minimizing the efforts made to adapt justice to the reality and needs of the North, the Québec Ombudsman considers that the search for solutions to the issue of over-representation of Nunavimmiut in Québec's justice system and, consequently, in the correctional system, should focus on the root of the problem by zeroing in on the origins of criminality.

3.3 Concerted efforts for social progress in Nunavik

Focusing on prevention and social reintegration

- 165 By law, the Direction générale des services correctionnels is required to promote access to programs and specialized services offered by community resources for social reintegration, particularly those designed “to initiate the process of solving the problems associated with the delinquency of the offenders, in particular problems of domestic violence [...], alcoholism and substance abuse.”¹⁵³
- 166 Although programs should be offered within the target communities (prevention) — both during incarceration and upon release — few effective prevention and social integration resources are currently available in Nunavik. Most Nunavik communities do not have

¹⁴⁹ Mylène JACCOUD, « Peuples autochtones et pratiques d'accommodements en matière de justice pénale au Canada et au Québec », (2014) 36 *Archives de politique criminelle* 36 ; ADVISORY COMMITTEE ON THE ADMINISTRATION OF JUSTICE IN ABORIGINAL COMMUNITIES, *Justice for and by the Aboriginals*, Québec, 1995 ; WORKING GROUP ON JUSTICE IN NUNAVIK, *Report for the period of 2011*, Québec ; MAKIVIK CORPORATION, KATIVIK REGIONAL GOVERNMENT et al., *Parnasimautik Consultation Report*, supra note 83, p. 102 ; CANADA ROYAL COMMISSION ON ABORIGINAL PEOPLES, *Report of the Royal Commission on Aboriginal Peoples*, Québec, 1996 [[electronic resource](#)].

¹⁵⁰ R. v. GLADUE, [1999] 1 S.C.R. 688 ; R. v. IPEELEE, [2012] 1 S.C.R. 433.

¹⁵¹ In Québec, probation officers prepare pre-sentencing reports at the request of the courts, in order to facilitate sentencing by informing the court about the accused's potential for reintegration and the risk to public safety. *An Act respecting the Québec correctional system*, supra note 29, section 7.

¹⁵² In addition, sentencing circles have been established in some Canadian territories.

¹⁵³ *An Act respecting the Québec correctional system*, supra note 29, s. 22.

access to alcohol or substance abuse treatment services, despite the fact that alcohol and drug abuse are often closely linked to Inuit struggles with the law.¹⁵⁴ It should be noted that the number of domestic violence cases reported is constantly growing, reaching 1,350 in 2014.¹⁵⁵ Women and children are often collateral victims of these “untreated” addictions.

- 167 Because Inuit are most likely to have sentences of supervised probation (35%) and suspended prison sentences (48%),¹⁵⁶ and many serve their sentence in their village, the Québec Ombudsman considers that working on the issues behind delinquent behaviours and on developing prevention and social reintegration programs adapted to the needs of each of the 14 communities are essential.
- 168 In the Partnership Agreement on Economic and Community Development in Nunavik (Sanarrutik Agreement),¹⁵⁷ whereby it was decided to not build a correctional facility in Nunavik, the Government of Québec, Kativik Regional Government and Makivik Corporation undertook to focus on prevention, promoting the health and safety of Nunavik communities and improving correctional services for Inuit.
- 169 However, now, ten years later, the Québec Ombudsman sees that there are still few prevention and social reintegration programs truly accessible to Nunavimmiut. Projects have yet to materialize, and some resources are forced to cease operations due to lack of funding or qualified or specialized personnel.¹⁵⁸
- 170 For example, in the Sanarrutik Agreement,¹⁵⁹ the Government of Québec pledged to establish an operational residential community centre in Nunavik by April 1, 2004. The facility would accommodate 14 people and its operating costs would be covered by the government. The Makitautik residential community centre in Kangirsuk was operational for a few years. However, due to issues with the centre's management, the Ministère de la Sécurité publique stopped sending its correctional clientele there in July 2014.¹⁶⁰ At the time of writing this report, the Ministère de la Sécurité publique's collaboration with the resource was still suspended.
- 171 Based on the information received, in the case of early releases, the Direction générale des services correctionnels only recommends one treatment facility in Nunavik — Isuarsivik Treatment Centre. However, the type of people this organization can receive is very limited since it offers six weeks of treatment, with only the first three weeks consisting of inpatient treatment. As a result, only people with a low-risk of re-offending can be admitted.
- 172 The current situation, in which access to addiction treatment resources (which foster crime prevention and social reintegration) is already limited, is damaging.

¹⁵⁴ MAKIVIK CORPORATION, KATIVIK REGIONAL GOVERNMENT et al., *Parnasimautik Consultation Report*, supra note 83, p. 107.

¹⁵⁵ KATIVIK REGIONAL GOVERNMENT, *2014 Annual Report*, supra note 97, p. 107.

¹⁵⁶ DIRECTION DE LA RECHERCHE DES SERVICES CORRECTIONNELS, *2007-2008 Correctional profile*, supra note 81, p. 78 ; according to stakeholders, there are fewer applications for a stay, particularly since passage of Bill C-10. *An Act to amend the Criminal Code (conditional sentence of imprisonment)*, S.C. 2007, c. 12.

¹⁵⁷ SECRÉTARIAT AUX AFFAIRES AUTOCHTONES, MINISTÈRE DU CONSEIL EXÉCUTIF, *Sivunirmut Agreement*, supra note 74. Ratified by the Québec Government, the Kativik Regional Government, and Makivik Corporation.

¹⁵⁸ The following resources exist in Nunavik. However, it should be noted that the services provided are sometimes unstable or unavailable for several months: Isuarsivik (Kuujjuaq - substance abuse treatment); Justice Committees (offender follow-up, references, elders); AA Meetings (in several communities); Unaak (Inukjuak - meetings for men, elders, workshops with social worker); Crisis Center (Inukjuak, Puvirnituaq - mental health, accommodation); Smart Recovery Program (Inukjuak - drug addiction treatment); Qajaq (Inukjuak - support for criminalized men). It should be noted that the Ministère de la Santé et des Services sociaux is present in all of the communities and provides health and social services, including regular psychological services. Data received from Direction générale des services correctionnels, October 2015.

¹⁵⁹ SECRÉTARIAT AUX AFFAIRES AUTOCHTONES, MINISTÈRE DU CONSEIL EXÉCUTIF, *Sivunirmut Agreement*, supra note 74.

¹⁶⁰ Letter dated July 2 2014, from the Acting Deputy Director General, Gérard Murray-Chevrier, to the Réseau correctionnel Ouest du Québec.

- 173 The Québec Ombudsman is concerned about the lack of resources offered to Inuit inmates, who require significant support given that their risk of re-offending and needs are considered “high” to “very high.” The Commission québécoise des libérations conditionnelles is bound by the *Act respecting the Québec correctional system*. It therefore cannot, in the absence of a release plan ensuring the public’s safety and social reintegration, authorize a conditional release or temporary absence under any circumstances.
- 174 The Québec Ombudsman has noted that when a detainee is released from a correctional facility and perhaps returns to a village, the issues with living conditions remain the same. This may have an impact on Inuit offenders’ behaviours (drug or alcohol abuse, violence, delinquency). After serving a sentence in a Southern correctional facility, Nunavimmiut return to their communities and find themselves amid the same conditions that led to their criminalization, including substance abuse by the people around them, or over-crowded apartments,¹⁶¹ which in turn creates a risk of re-offending.¹⁶² In addition, people with a criminal record have difficulty finding work.¹⁶³

Strong justice committees as a potential solution

- 175 In Québec, the justice initiatives community program (“justice committees”) was launched in 2000. One of the purposes of justice committees is to demystify the justice system. They also play a key role in crime prevention and the social reintegration of offenders.¹⁶⁴
- 176 According to all of the stakeholders consulted, the justice committees — when trained and financed appropriately — contribute significantly to the wellbeing of Nunavik communities.¹⁶⁵ In addition to providing alternative measures for dealing with adults, and extra-judicial sanctions for young offenders,¹⁶⁶ the committees meet with the accused and explain the legal proceedings. They provide inmates with support after their detention, interim release, probation or conditional release. Finally, they take part in developing social reintegration action plans with the people concerned, or, where applicable, help them plan treatment. Others plan traditional activities, which creates a sense of belonging to the community before, during and after incarceration.¹⁶⁷
- 177 Since the 2000-2001 fiscal year, the Ministère de la Justice, in cooperation with the federal government’s Department of Justice, has given the Makivik Corporation funding for justice

¹⁶¹ About 50% of dwellings are reportedly overcrowded, and it would take 900 new dwellings to provide appropriate living conditions for people in the region. For an overview of the housing crisis in Nunavik, see MAKIVIK CORPORATION, KATIVIK REGIONAL GOVERNMENT et al., *Parnasimautik Consultation Report*, supra note 83, p. 107, under “Cost of living and housing”, p. 115.

¹⁶² The information gathered confirmed the high level of crime recidivism. “A significant number of detainees sentenced to jail often reoffend a short time after they get back to their community or commit breaches while under either probation, undertaking or other conditions. As an example, in 2013, 304 detainees out of a total of 429 were sent to jail after they committed breaches (sometimes in combination with other crimes).” Moreover, according to the inventory of Nunavimmiut who have been detained in the North, an inventory maintained by the correctional officers in charge of their detention, close to 2,000 people have been incarcerated in the North since 2006. Many of them have been incarcerated on more than one occasion. The inventory also confirmed a sharp increase of Inuit women in detention. MAKIVIK CORPORATION, KATIVIK REGIONAL GOVERNMENT et al., *Parnasimautik Consultation Report*, supra note 83, p. 106.

¹⁶³ It should be recalled that in some villages the number of charges is greater than its population. For example, in Salluit, which was home to 1,380 people in 2013, 2,249 criminal cases were opened between 2003 and 2013. BARREAU DU QUÉBEC, *Justice in the Far North*, supra note 54.

¹⁶⁴ Mylène JACCOUD, supra note 149, p. 237 ; Data received from the Ministère de la Justice, August and September 2015.

¹⁶⁵ It should be noted that the Ministère de la Justice acknowledged the relevance of justice committees in its 2000-2001 Annual Report. MINISTÈRE DE LA JUSTICE, *Rapport annuel 2000-2001 du ministère de la Justice*, Québec, 2001 [electronic resource], p. 30 and 52.

¹⁶⁶ According to section 717 Cr. C., Canadian provinces and territories may use alternative measures to deal with adult offenders. Courts rulings also advocate reviewing all available sanctions other than imprisonment that are reasonable in the circumstances. See R. v. GLADUE and R. v. IPEELEE, supra note 150.

¹⁶⁷ Data received from the Ministère de la Justice, August and September 2015.

committee activities. Although the relevance of these committees is recognized, the current committees are in need of support and funding so that they can fulfil their mandate.¹⁶⁸ However, justice committee members could act as resources in every community, thus improving Nunavimmiut understanding of and trust in justice and its administration in their territory.

Recommendations:

Concerning crime prevention and social reintegration

Whereas:

Crime prevention and social reintegration programs, as well as support when offenders return to Nunavik, are essential in reducing the social problems noted and in keeping cases out of the Court;

The Ministère de la Sécurité publique, along with the Ministère de la Santé et des Services sociaux, is responsible for offering these services and ensuring funding for these resources;

The Ministère de la Sécurité publique has not sent anyone to the Makitautik residential community centre in Kangirsuk in over a year;

The fourteen Nunavik communities are required to help identify prevention and social reintegration needs and priorities, and proactive cooperation between the stakeholders concerned in the development of related initiatives is essential;

Active participation by all partners in the development and support of prevention and social reintegration initiatives would help create a snapshot of existing projects, funded under the Ungaluk Program, as well as communities' priority needs;

The stakeholders consulted — particularly the Kativik Regional Government and the Makivik Corporation — consider that properly equipped justice committees help to keep cases out of the Court, especially by providing offenders with effective support when they return to their community;¹⁶⁹

All offenders should benefit from the support of justice committees, which is not currently the case given that several Nunavik communities do not have such committees.

The Québec Ombudsman recommends:

R-26 That the Ministère de la Sécurité publique take immediate measures to ensure that the Makitautik residential community centre in Kangirsuk is made operational again, is used to its maximum capacity and that mechanisms are established to prevent further service interruptions.

R-27 That, no later than December 31, 2016, the Ministère de la Sécurité publique, in cooperation with the Ministère de la Santé et des Services sociaux, the Ministère de la Justice, the Kativik Regional Government and the Makivik Corporation, assess the programs available to offenders and draft a list of priorities based on the needs

¹⁶⁸ MAKIVIK CORPORATION, KATIVIK REGIONAL GOVERNMENT et al., *Parnasimautik Consultation Report*, supra note 83, p. 107.

¹⁶⁹ See note 147.

expressed by Nunavimmiut, particularly for people with a medium to high risk of re-offending.

R-28 That, no later than December 31, 2016, the Ministère de la Justice ensure that all fourteen Nunavik communities have an active, funded justice committee, that its members are provided appropriate training and support, and that the Department produce an annual overview of the committees' activities, in cooperation with the Kativik Regional Government and the Makivik Corporation.

Supporting court action prevention initiatives

- 178 In order for local alternatives to court action to be effective and lead to concrete results, the Québec Ombudsman considers that they should be supported by the authorities concerned and the communities closely associated with the development of solutions. In this respect, the Government of Québec's objective to "support ongoing efforts to provide improved health and social services, justice and housing"¹⁷⁰ in this part of the Québec territory should be recognized. The 2015-2020 Plan Nord action plan provides for a "continuum of services with better coordination" and preventive action to deal with "urgent social and health problems that may bring young people and adults before the courts."¹⁷¹
- 179 The implementation of "restorative justice"¹⁷² would enable the orientation of practices toward management that protects, supports, repairs and accompanies the rebuilding process for abused and abusive people¹⁷³ instead of perpetuating the criminalization of Nunavimmiut social problems. This could be done by strengthening justice committees, improving the psychosocial services offered, treating addiction and preventing domestic violence, as well as by adapting social reintegration programs offered to Inuit.¹⁷⁴
- 180 The Québec Ombudsman considered that thorough planning and concerted action are necessary for implementing short-term priorities. Despite the Government's expressed willingness, not much has happened in terms of real progress. For instance, participation by certain government players and the Inuit community in the prevention and community aid program (Safer Communities Program, "Ungaluk Program"), considered an alternative to the construction of a correctional facility in the North, is currently very modest.¹⁷⁵
- 181 The same is true for other alternative justice and social regulation initiatives, such as the Saqijjuq Project, which is funded by the Ungaluk Program. The Saqijjuq Project is a community intervention model adapted to Inuit reality. Its purpose is to target the

¹⁷⁰ SECRÉTARIAT DU PLAN NORD, MINISTÈRE DU CONSEIL EXÉCUTIF, *The Plan Nord Toward 2035, 2015-2020 Action Plan*, Québec 2015 [[electronic resource](#)], p.65.

¹⁷¹ The Saqijjuq Project is chaired by the Associate Social Services Minister and a representative of the main Inuit bodies. The project is the joint responsibility of the Ministère de la Santé et des Services sociaux, the Ministère de la Justice, the Ministère de la Sécurité publique, the Secrétariat aux affaires autochtones, the Makivik Corporation, and the Kativik Regional Government; Étude des crédits 2014-2015, Specific information, Official Opposition ; MAKIVIK CORPORATION, KATIVIK REGIONAL GOVERNMENT et al., *Parnasimautik Consultation Report*, supra note 83, p. 108-110.

¹⁷² Mylène JACCOUD, supra note 149, p. 239; Mylène JACCOUD, *Reconstructing social regulation in Inuit Communities: A Field for Action and Public Policy*, Concept paper presented to the Working Group on Justice in Nunavik, July 2010.

¹⁷³ *Id.*

¹⁷⁴ These elements incorporate the objectives of the Saqijjuq Nunavik Québec Project, and stakeholders identified them as priorities in the improvement of Nunavik's social fabric.

¹⁷⁵ It should be recalled that Amendment No. 3 to the Partnership Agreement on Economic and Community Development in Nunavik (August 2006) provided for the establishment of a committee of experts by September 2006, which was set to meet at least twice per year. The committee was to identify the needs of the region and recommend priorities and strategies to meet the objectives set as an alternative to the construction of a correctional facility in Nunavik (to prevent and combat crime, to promote safe and healthy communities by, among other things, taking culturally appropriate measures to improve the social environment in Nunavik, to provide assistance to crime victims and to improve correctional activities for the Inuit). SECRÉTARIAT AUX AFFAIRES AUTOCHTONES, MINISTÈRE DU CONSEIL EXÉCUTIF, Sivunirmut Agreement, supra note 74.

repercussions of drug and alcohol abuse by mobilizing communities, Inuit organizations, and the Government of Québec departments and agencies concerned.¹⁷⁶

182 Although this initiative was approved by the government and is described as a “concrete example of concerted action,”¹⁷⁷ the Québec Ombudsman is disappointed to see that only one meeting was held during the 2013-2014¹⁷⁸ fiscal year, and no decisions or follow-up ensued. Proactive, structured participation by all partners in projects considered valid is crucial to project success.

183 The development of these court case prevention initiatives, including the Saqijjuq Project, is an opportunity to be seized by all in order to limit the continually growing criminalization of Inuit. In this respect, the Québec Ombudsman considers that all stakeholders concerned¹⁷⁹ must implement an **integrated action plan** aimed at supporting justice system alternatives.¹⁸⁰ Clear commitments from the Government departments concerned and from Inuit community leaders should translate into more active and structured participation in activities of the Ungaluk Program and of the Saqijjuq Project expert committee, as well as into the designation of a person responsible for developing and implementing a common action plan aimed at reducing crime and court cases in Nunavik.

Recommendations:

Concerning court action prevention

Whereas:

Nunavimmiut are over-represented in Québec's correctional and justice systems in a context of worsening social problems and higher crime and recidivism rates;

Court action does not solve root problems such as substance abuse, alcoholism, domestic violence and difficult access to housing and to adapted social reintegration programs;

Sentences and sanctions do not dissuade people struggling with addiction;

Solutions to social problems must not be solely dependent on the justice system;

In a context in which the crime rate is increasing in Nunavik, the administration of justice needs to be rethought so that it contributes to the reduction of social problems through increased support for initiatives aimed at keeping cases out of the Court;

¹⁷⁶ SECRÉTARIAT DU PLAN NORD, *supra* note 170.

¹⁷⁷ An action plan was developed and the implementation plan covering the actions proposed was submitted to the Project Governance Office for approval on May 21, 2015.

¹⁷⁸ Étude des crédits 2014-2015, Specific information, Official Opposition, p. 53.

¹⁷⁹ Kativik Regional Government, Makivik Corporation, Ministère de la Justice, Ministère de la Santé et des Services sociaux, Ministère de la Sécurité publique.

¹⁸⁰ It should be noted that the Amendment provided that, in the event Québec undertook a regrouping at a single correctional institution of the Inuit who have been remanded in custody or serving a prison sentence of fewer than two years, it may, commencing in the year of the regrouping, and subject to the written consent of the Makivik Corporation and the Kativik Regional Government, retain annually for that purpose a maximum amount of \$950,000 from the funding provided for under section 4.4.1 (\$10 million annually) to cover in part the amortization of the capital cost involved in such regrouping. SECRÉTARIAT AUX AFFAIRES AUTOCHTONES, MINISTÈRE DU CONSEIL EXÉCUTIF, *supra* note 76.

It is crucial to promote community participation in the administration of justice, focusing on alternative solutions to appearances before the Itinerant Court¹⁸¹;

In order to reduce criminality and recourse to the justice system, it is essential to develop and implement a coherent action plan aimed at effective and proactive partnership, that involves all regional and Government of Québec partners, including the Kativik Regional Government, the Makivik Corporation, the Ministère de la Justice, the Ministère de la Sécurité publique and the Ministère de la Santé et des Services sociaux;

The implementation of an effective, integrated action plan requires that all stakeholders work in tandem, including those from the Inuit community;

Given that no one from the Ungaluk Program expert committee is in charge and that there is no recognized leadership, work to prevent the criminalization of Nunavimmiut, including Saqijjuq project initiatives, may be impeded.

The Québec Ombudsman recommends:

R-29 That the Ministère de la Sécurité publique and the Ministère de la Justice, in conjunction with the Ministère de la Santé et des Services sociaux, the Kativik Regional Government and the Makivik Corporation, actively participate in prevention and social reintegration initiatives (Ungaluk Program and Saqijjuq Project) and appoint someone to be accountable for the implementation of a common action plan aimed at reducing crime and court cases in Nunavik.

R-30 That the Ministère de la Sécurité publique and Ministère de la Justice, in cooperation with the Ministère de la Santé et des Services sociaux, the Kativik Regional Government and the Makivik Corporation, provide a status report, on an annual basis, on related programs and services developed, along with their reports to the National Assembly.

Follow-up

Concerning implementation of the recommendations in this report

The Québec Ombudsman asks:

That the Ministère de la Sécurité publique and the Ministère de la Justice provide the Québec Ombudsman, no later than May 31, 2016, with a work plan for tracking the implementation of these recommendations, and with a progress report. They will each be accountable for ensuring that the recommendations are implemented by the deadlines specified by the Québec Ombudsman.

That the Ministère de la Sécurité publique and Ministère de la Justice include a status update in their annual reports to the National Assembly on the implementation of this plan and on the outcomes that have been assessed.

¹⁸¹ In Québec, some reports, including the Report of the Advisory Committee on the Administration of Justice in Aboriginal Communities, proposed adopting such measures. See CANADA ROYAL COMMISSION ON ABORIGINAL PEOPLES, *supra* note 149

Conclusion

- 184 Nunavimmiut have the same rights and obligations as all other Québec citizens. For its part, the Government is required to treat all of its citizens fairly. However, it is clear that Inuit living north of the 55th parallel are penalized by the distance separating them from the rest of the province.
- 185 As stated in this report, this is especially true when it comes to the incarceration of offenders and the administration of justice. The Québec Ombudsman's observations reveal that there is an inadequate response to the needs of Inuit, both during their journey through the justice system and during their social reintegration. This reality is unacceptable.
- 186 However, though stakeholders have been aware of the situation for several decades, it is disappointing to see that in 2016, the authorities concerned still have not taken concrete concerted action to improve the situation.
- 187 Although it is a complex issue, the Québec Ombudsman reiterates that it is essential that the Government, along with the Nunavik communities, identify and implement concrete solutions in order to:
- ▶ Reduce crime;
 - ▶ Find alternatives to legal proceedings and incarceration;
 - ▶ Provide effective social reintegration mechanisms to better prevent the risk of repeat offences.
- 188 In the meantime, the Québec Ombudsman insists on the fact that detention conditions for Inuit in Nunavik — which are extremely appalling — immediately need to be upgraded to a level that is acceptable in a lawful society like Québec. The short duration of stays in these detention cells is not a valid reason for allowing the situation to continue. It violates these citizens' fundamental rights, including the right to human dignity. Moreover, the required outlays are reasonable, not to mention the savings that may be generated through the implementation of measures targeting more effective organization of legal services in this part of Québec.
- 189 For several years, different players have studied the issue of Inuit over-representation in the justice and correctional systems. However, it is obvious that, unless changes are made, there are no positive outcomes to be expected. It is now time to take action in order to more effectively reduce and prevent social problems and crime in this part of Québec.
- 190 The Québec Ombudsman hopes that its external and independent perspective will contribute to the deliberations and cooperation of the parties and help to identify and implement concrete, effective solutions and to resolve complex — yet solvable — issues.

Appendix 1: Recommendations

Recommendations:

Concerning detention cell occupancy rates in Nunavik

Whereas:

Puvirnituaq has become a hub for the administration of justice in Nunavik;

The Direction générale des services correctionnels acknowledges the overcrowding and lack of privacy resulting from the current occupancy rate of cells in Puvirnituaq;

The number of people who need to be incarcerated in Nunavik during Itinerant Court sessions is increasing, and the same is true of the number of Court days in Puvirnituaq;¹⁸²

Detention and hygiene conditions at the Puvirnituaq police station are the worst the Québec Ombudsman has ever seen;

Due to a shortage of space, inmates must live under inhumane conditions that violate international rules, charters of rights and freedoms, laws, regulations and ministerial instructions;

Due to a shortage of space and staff, inmates cannot spend the night in the Puvirnituaq holding cells;

The Direction générale des services correctionnels is considering expanding the Puvirnituaq holding cell area;

The Kativik Regional Government considers that expanding Puvirnituaq holding cells area is the only medium- to long-term option for increasing the number of detention cells for inmates in Puvirnituaq;

The Québec Ombudsman is aware of budgetary constraints, though these constraints should not be a pretext for failing to implement immediate solutions given the human — particularly health — and safety risks stemming from overly high detention cell occupancy.

The Québec Ombudsman recommends:

R-1 That the Ministère de la Sécurité publique, in cooperation with the Ministère de la Justice, immediately make the expansion of Puvirnituaq courthouse holding cell area a priority.

R-2 That the Ministère de la Sécurité publique immediately identify and implement means of reducing the occupancy rates of Puvirnituaq police station cells in the short-term and of ensuring adequate cleanliness and hygiene.

¹⁸² The number of days increased from 25 to 68 in ten years. The figure is 98 if days reserved for youth protection cases are taken into account in the Court calendar. Data received from the Ministère de la Justice du Québec, August 2015.

Recommendation:

Concerning mixed client populations

Whereas:

During a session of the Itinerant Court in a given village, correctional officers become responsible for the custody of all people arrested or detained by Kativik Regional Police Force officers, including intoxicated or suicidal individuals;

For reasons of safety, people who must be incarcerated are entitled to treatment appropriate to their sex, age and physical or mental condition;

The shortage of space means that inmates under the responsibility of correctional services must cope with very difficult detention conditions, particularly due to the presence of intoxicated, noisy — and sometimes aggressive — individuals.

The Québec Ombudsman recommends

R-3 That, by June 30, 2016, the Ministère de la Sécurité publique take the necessary measures to ensure that different types of client populations be detained separately, in compliance with the *Charter of Human Rights and Freedoms*, which stipulates that anyone confined to a correctional facility has the right to separate treatment appropriate to his sex, his age and his physical or mental condition.¹⁸³

Recommendations:

Concerning infrastructure and basic supplies

Whereas:

The number of inmates in Nunavik increases when the Itinerant Court is in session, and there is a correlated increase in basic needs, such as mattresses, bedding and access to water;

It is necessary to meet current needs and plan for additional supplies in case of sporadic increases in the number of inmates;

The Sivunirmut Agreement stipulates that the Direction générale des services correctionnels is required to purchase and arrange for the shipment to Nunavik of mattresses and bedding used for custodial activities;

Sanitation facilities are often defective or unusable, particularly due to water supply issues;

The normative framework stipulates that inmates in Québec correctional facilities are to shower at least twice per week;

Obsolescence and uncleanliness entail health risks and can lead to the transmission of infectious diseases, to say nothing of the psychological harm inherent in such unsanitary conditions;

¹⁸³ *Charter of Human Rights and Freedoms*, supra note 49.

The Direction générale des services correctionnels is required to ensure that detention conditions for people under its responsibility are humane and comply with the law, even if it does not own the facilities used for detention.

The Québec Ombudsman recommends:

- R-4 That the Ministère de la Sécurité publique immediately ensure, through thorough management and follow-up of its material resources, prompt delivery of a sufficient amount of basic supplies — particularly mattresses and bedding — to all Nunavik detention cells, that it arrange for appropriate storage of these basic supplies and that it account for this formally in order to guarantee that the obligations stemming from the Sivunirmut Agreement are met.**
- R-5 That the Ministère de la Sécurité publique immediately take the necessary measures to ensure that all sanitation facilities are in proper working order at all times, and that there is access to sufficient quantities of hot and cold water at all times.**

Recommendations:

Concerning laundry and janitorial services

Whereas:

Inmates are sometimes forced to use dirty — if not filthy — material, thereby putting their health at risk;

The Québec Ombudsman has noted the unsanitary condition of detention cells, particularly at the Puvirnituaq police station;

The Sivunirmut Agreement stipulates that the Kativik Regional Government is responsible for providing laundry and janitorial services resulting from the use by the Direction générale des services correctionnels of the holding cells in Kuujjuaq, Kuujuarapik and Puvirnituaq, as well as cells and police stations in other villages in Nunavik;

The Direction générale des services correctionnels is required to ensure that detention conditions for inmates under its responsibility are humane and comply with the law even though it has delegated certain responsibilities to the Kativik Regional Government under the Agreement.

The Québec Ombudsman recommends:

- R-6 That the Ministère de la Sécurité publique immediately establish mechanisms to ensure that the Kativik Regional Government fulfils its obligation to provide laundry and janitorial services for each detention cell.**
- R-7 That the Ministère de la Sécurité publique ensure that detention cells are thoroughly cleaned and disinfected immediately, and on a regular basis thereafter.**

Recommendation:

Concerning food services for Nunavik inmates

Whereas:

Despite the improved quality and frequency of meals distributed in Kuujjuaq, Puvirnituaq and Kuujjuarapik over the last year, service cuts have recently been noticed, particularly when supplier contracts expire;

The normative framework stipulates that the Kativik Regional Government is responsible for providing meals to inmates in Kuujjuaq, Kuujjuarapik and Puvirnituaq holding cells and in the villages' police station cells;

The Direction générale des services correctionnels is required to ensure that detention conditions for inmates under its responsibility are humane and comply with the law even though it has delegated certain responsibilities to the Kativik Regional Government under the Agreement.

The Québec Ombudsman recommends:

R-8 That the Ministère de la Sécurité publique ensure that the quality and quantity of meals provided to inmates by the Kativik Regional Government meet required standards, and that it follow up with the Kativik Regional Government to ensure that there are mechanisms established to ensure service continuity when new suppliers are awarded contracts.

Recommendations:

Concerning the lack of outdoor activities

Whereas:

Section 10 of the *Act respecting the Québec correctional system* and rule 23 of the *Minimum Rules for the Treatment of Prisoners* (the Mandela Rules) stipulate that inmates are entitled to at least one hour of outdoor time per day, and this obligation is not upheld in Nunavik;

Kuujjuaq holding cells and the Kuujjuaq police station, which share a building, have a courtyard that is not being used and, given its small size, work to secure it would be affordable;

There is no other infrastructure for outdoor activities.

The Québec Ombudsman recommends:

R-9 That the Ministère de la Sécurité publique immediately carry out the work required to make the courtyard of Kuujjuaq holding cells safe, and for it to be used on a daily basis by all inmates under the responsibility of the Direction générale des services correctionnels as soon as it is completed.

R-10 That the Ministère de la Sécurité publique provide for a secure courtyard in all projects to build or expand infrastructure which it owns, and ensure that the Kativik Regional Government do likewise for police stations where inmates are kept in custody.

Recommendation:

Concerning personal belongings

Whereas:

Under the *Biens personnels de la personne incarcérée* ministerial instruction, correctional facilities are always responsible for inmates' personal belongings that are kept in lockers, and the same should be true for Nunavik detention cells;

The Kativik Regional Police Force and correctional officers seem to follow different rules for storing inmates' personal belongings, which leads to losses.

The Québec Ombudsman recommends:

R-11 That the Ministère de la Sécurité publique ensure that inmates' personal belongings are stored in an appropriate place and that it take the necessary measures with the Kativik Regional Government to set up a common storage system in all correctional facilities, including inventory.

Recommendation:

Concerning surveillance of the premises

Whereas:

Several police station cells have cameras pointed directly at the sanitation facilities, and police and correctional officers have access to the images transmitted;

This situation is in violation of inmates' human dignity.

The Québec Ombudsman recommends:

R-12 That the Ministère de la Sécurité publique immediately take the necessary measures with the Kativik Regional Government to change the camera angle so as to block visual access to the sanitation facilities or, at the very least, limit camera use in cells not used for inmates presenting a risk of suicide or in crisis.

Recommendation:

Concerning the complaint examination system

Whereas:

Contrary to sections 62 and following of the *Regulation under the Act respecting the Québec correctional system*, Nunavik inmates' right to file a complaint is hindered, if not violated.

The Québec Ombudsman recommends:

R-13 That the **Ministère de la Sécurité publique** make the standard complaint form or an adapted version translated into Inuktitut available and ensure that all complaints are examined proficiently and in accordance with the *Regulation under the Act respecting the Québec correctional system*.

Recommendation:

Concerning telephone calls

Whereas:

To ensure that the rights of inmates are upheld, it is important for them to be able to reach the Québec Ombudsman free of charge from all Nunavik correctional facilities, as is the case in all correctional facilities and holding cells in the rest of Québec.

The Québec Ombudsman recommends:

R-14 That the **Ministère de la Sécurité publique** take the necessary measures to ensure that the toll-free number for the Québec Ombudsman, for exclusive use by inmates, is permanently on display in all correctional facilities in Nunavik, as is the case in the rest of Québec.

Recommendations:

Concerning anti-suicide equipment

Whereas:

A lack of anti-suicide equipment was noted;

The Sivunirmut Agreement stipulates that the Direction générale des services correctionnels is responsible for purchasing and shipping to Nunavik the equipment employed in interrupting attempted suicides, used within the framework of custodial activities;

Bringing the training offered to people responsible for inmate custody up to standard would help ensure inmate safety, particularly during a crisis.

The Québec Ombudsman recommends:

R-15 That the Ministère de la Sécurité publique immediately ensure that sufficient quantities of anti-suicide equipment are available at all times.

R-16 That the Ministère de la Sécurité publique, no later than June 30, 2016, ensure that all correctional officers overseeing the custody of inmates in Nunavik receive adequate, up-to-date training in means of intervention in cases of suicide or suicide attempts, including the use of anti-suicide equipment.

Recommendation:

Concerning shared safe custody responsibilities

Whereas:

The responsibilities shared between Ministère de la Sécurité publique correctional officers and Kativik Regional Police Force officers are unclear, and this may have have an impact on whether inmates' residual rights are upheld;

Currently, the Sivunirmut Agreement is not respected in its entirety;

The Direction générale des services correctionnels is required to ensure that detention conditions for inmates under its responsibility are humane and comply with the law even though it has delegated certain responsibilities to the Kativik Regional Government under the Agreement.

The Québec Ombudsman recommends:

R-17 That the Ministère de la Sécurité publique clarify its responsibilities and those of the Kativik Regional Government, that it enter into an agreement with the latter concerning a procedure for upholding the Sivunirmut Agreement and that it establish a more effective and comprehensive monitoring and accountability mechanism with the Kativik Regional Government.

Recommendations:

Concerning the language barrier

Whereas:

Several Nunavimmiut speak only Inuktitut;

With a few rare exceptions, there are no Inuit or Inuktitut-speaking officers working in Québec correctional facilities;

Few documents on the rights and obligations of inmates are available in Inuktitut.

The Québec Ombudsman recommends:

R-18 That the Ministère de la Sécurité publique have the main information documents and forms used by Inuit inmates translated into Inuktitut no later than June 30, 2016, and provide an interpreter for special interventions.

R-19 That the Ministère de la Sécurité publique, no later than March 31, 2016, take the necessary measures to ensure that Inuit of the appropriate classification have access to the same work detail as the rest of the inmate population with a similar classification.

Recommendations:

Concerning the creation of an air link between Abitibi-Témiscamingue (Amos) and Nunavik

Whereas:

There is a need to reduce the negative human and financial impact of transfer management procedures;

The Ministère de la Sécurité publique and the Kativik Regional Government have been planning to implement an air link between Abitibi-Témiscamingue and Nunavik for several years;

An air link would reduce transportation delays and Inuit would not have to transit through Montréal, then Saint-Jérôme, for their legal proceedings in Abitibi-Témiscamingue;

This procedure would be made profitable through the grouping of all Inuit detainees at the future Amos correctional facility;

An air link would help reduce the costs of transfers and ensure better management of public funds;

An air link would reduce the negative impacts of transferring and incarcerating Nunavimmiut in the South and facilitate visits with family and relatives.

The Québec Ombudsman recommends:

R-20 That the Ministère de la Sécurité publique and the partners concerned implement the air link between the Amos airport and Nunavik, and ensure it is operational as soon as the new Amos correctional facility opens in the fall of 2016.

R-21 That Inuit currently detained at the Saint-Jérôme, Maison Tanguay (Laval's Leclerc facility as of February 2016) and elsewhere be, barring some exceptions, incarcerated at the future correctional facility in Amos, and that a large enough section for women be included in the facility.

Recommendations:

Concerning the use of videoconferencing and new technologies

Whereas:

Greater use of videoconferencing or another equivalent technological solution would enhance the effectiveness of the administration of justice by preventing long trips for inmates and well as costly court appearances;

The Court of Québec has begun considering the possibility of greater use of new technologies, such as videoconferencing, and other Canadian provinces have implemented similar systems that have proven effective;

The Ministère de la Justice is developing a pilot project to promote greater use of videoconferencing;

The use of videoconferencing would help reduce preventive custody delays for Nunavimmiut (avoiding unnecessary transfers South), as well as the risks inherent in the transfer of inmates;

There are no operational videoconferencing systems at the Puvirnituaq courthouse or in the smaller villages of Nunavik;

By not having its officers travel South, the Kativik Regional Police Force could optimize the use of its resources in order to better serve Nunavik communities;

Current ways of operating affect the rights of Nunavimmiut, for instance by making it more difficult to have witnesses at bail hearings due to cost and distance;

Alternatives to the use of videoconferencing as part of legal proceedings need to be provided in order to ensure that the special needs of vulnerable people are taken into account.

The Québec Ombudsman recommends:

R-22 That the Ministère de la Sécurité publique and the Ministère de la Justice assess the needs and conditions for the use of videoconferencing or an equivalent technological system, and implement appropriate technological solutions, in particular, in order to avoid having to transfer inmates during pre-trial legal proceedings. It also recommends that these Departments, if necessary, enter into agreements with partners who already have videoconferencing equipment or an equivalent system with a view to shared use, no later than December 31, 2016.

R-23 That the Ministère de la Sécurité publique and the Ministère de la Justice see to it that an operational videoconferencing system is installed and used, at the very least in Kuujuaq and Puvirnituaq, and that the Ministère de la Sécurité publique ensure that correctional facilities which receive Inuit inmates awaiting trial have access to adequate videoconferencing equipment or any other equivalent technology, in a secure location, no later than December 31, 2016.

Recommendations:

Concerning access to information and justice services

Whereas:

The number and complexity of the criminal and penal cases heard by the Itinerant Court are constantly growing;

It is difficult for Nunavimmiut to have access to clear and understandable information pertaining to their rights in laypersons' language;

The role and purpose of the Itinerant Court is often difficult for Nunavimmiut to understand;

The Makivik Corporation and Kativik Regional Government consider that it is essential that Nunavimmiut's access to information on the legal system be improved so as to ensure greater understanding and contribute to reinforcing Nunavimmiut's trust in the system.¹⁸⁴

The Québec Ombudsman recommends:

R-24 That the Ministère de la Justice ensure that, starting June 30, 2016, legal stakeholders in Nunavik provide Nunavimmiut in each village with complete, clear information on their rights and how the justice system works, both before and during legal proceedings, and access to an interpreter, as required.

R-25 That, starting December 31, 2016, the Ministère de la Justice improve access to legal services and analyze the relevance of adding permanent legal services similar to those offered in Kuujuaq on the eastern shore of Hudson Bay (Puvirnituaq), so as to better support Nunavimmiut in the justice system.

¹⁸⁴ Makivik Corporation, Leadership Council, resolution dated June 18, 2015; Kativik Regional Government, Kativik Regional Government Council, resolution 2015-47, May 27, 2015.

Recommendations:

Concerning crime prevention and social reintegration

Whereas:

Crime prevention and social reintegration programs, as well as support when offenders return to Nunavik, are essential in reducing the social problems noted and in keeping cases out of the Court;

The Ministère de la Sécurité publique, along with the Ministère de la Santé et des Services sociaux, is responsible for offering these services and ensuring funding for these resources;

The Ministère de la Sécurité publique has not sent anyone to the Makitautik residential community centre in Kangirsuk in over a year;

The fourteen Nunavik communities are required to help identify prevention and social reintegration needs and priorities, and proactive cooperation between the stakeholders concerned in the development of related initiatives is essential;

Active participation by all partners in the development and support of prevention and social reintegration initiatives would help create a snapshot of existing projects, funded under the Ungaluk Program, as well as communities' priority needs;

The stakeholders consulted — particularly the Kativik Regional Government and the Makivik Corporation — consider that properly equipped justice committees help to keep cases out of the Court, especially by providing offenders with effective support when they return to their community;¹⁸⁵

All offenders should benefit from the support of justice committees, which is not currently the case given that several Nunavik communities do not have such committees.

The Québec Ombudsman recommends:

R-26 That the Ministère de la Sécurité publique take immediate measures to ensure that the Makitautik residential community centre in Kangirsuk is made operational again, is used to its maximum capacity and that mechanisms are established to prevent further service interruptions.

R-27 That, no later than December 31, 2016, the Ministère de la Sécurité publique, in cooperation with the Ministère de la Santé et des Services sociaux, the Ministère de la Justice, the Kativik Regional Government and the Makivik Corporation, assess the programs available to offenders and draft a list of priorities based on the needs expressed by Nunavimmiut, particularly for people with a medium to high risk of re-offending.

R-28 That, no later than December 31, 2016, the Ministère de la Justice ensure that all fourteen Nunavik communities have an active, funded justice committee, that its members are provided appropriate training and support, and that the Department

¹⁸⁵ See note 147.

produce an annual overview of the committees' activities, in cooperation with the Kativik Regional Government and the Makivik Corporation.

Recommendations:

Concerning court action prevention

Whereas:

Nunavimmiut are over-represented in Québec's correctional and justice systems in a context of worsening social problems and higher crime and recidivism rates;

Court action does not solve root problems such as substance abuse, alcoholism, domestic violence and difficult access to housing and to adapted social reintegration programs;

Sentences and sanctions do not dissuade people struggling with addiction;

Solutions to social problems must not be solely dependent on the justice system;

In a context in which the crime rate is increasing in Nunavik, the administration of justice needs to be rethought so that it contributes to the reduction of social problems through increased support for initiatives aimed at keeping cases out of the Court;

It is crucial to promote community participation in the administration of justice, focusing on alternative solutions to appearances before the Itinerant Court¹⁸⁶;

In order to reduce criminality and recourse to the justice system, it is essential to develop and implement a coherent action plan aimed at effective and proactive partnership, that involves all regional and Government of Québec partners, including the Kativik Regional Government, the Makivik Corporation, the Ministère de la Justice, the Ministère de la Sécurité publique and the Ministère de la Santé et des Services sociaux;

The implementation of an effective, integrated action plan requires that all stakeholders work in tandem, including those from the Inuit community;

Given that no one from the Ungaluk Program expert committee is in charge and that there is no recognized leadership, work to prevent the criminalization of Nunavimmiut, including Saqijjuq project initiatives, may be impeded.

The Québec Ombudsman recommends:

R-29 That the Ministère de la Sécurité publique and the Ministère de la Justice, in conjunction with the Ministère de la Santé et des Services sociaux, the Kativik Regional Government and the Makivik Corporation, actively participate in prevention and social reintegration initiatives (Ungaluk Program and Saqijjuq Project) and appoint someone to be accountable for the implementation of a common action plan aimed at reducing crime and court cases in Nunavik.

¹⁸⁶ In Québec, some reports, including the Report of the Advisory Committee on the Administration of Justice in Aboriginal Communities, proposed adopting such measures. See CANADA ROYAL COMMISSION ON ABORIGINAL PEOPLES, *supra* note 149.

R-30 That the Ministère de la Sécurité publique and Ministère de la Justice, in cooperation with the Ministère de la Santé et des Services sociaux, the Kativik Regional Government and the Makivik Corporation, provide a status report, on an annual basis, on related programs and services developed, along with their reports to the National Assembly.

Follow-up

Concerning implementation of the recommendations in this report

The Québec Ombudsman asks:

That the Ministère de la Sécurité publique and the Ministère de la Justice provide the Québec Ombudsman, no later than May 31, 2016, with a work plan for tracking the implementation of these recommendations, and with a progress report. They will each be accountable for ensuring that the recommendations are implemented by the deadlines specified by the Québec Ombudsman.

That the Ministère de la Sécurité publique and Ministère de la Justice include a status update in their annual reports to the National Assembly on the implementation of this plan and on the outcomes that have been assessed.

Appendix 2: Social reintegration programs in Southern Québec correctional facilities where Inuit¹⁸⁷ are detained, and open custody resources

Amos correctional facility	Awareness and/or accountability Qajaq	Violence and substance abuse awareness. Visit from elders and traditional food. Minimize cultural uprooting.
Maison Tanguay Correctional facility	Urban liaison agent/Nunavik	Liaison mechanism with the Makivik Corporation (Nunavik) and the Chez Doris community organization (urban) in order to support Inuit in planning their release and return to their community.
	Healing workshops	Two group workshops followed by individual meetings for all participants. Objective: Allow them to express their pain and suffering with a view to providing support and healing.
	Information meeting on the justice system in Nunavik	Project to provide legal information to the Aboriginal populations in Nunavik. Provide Inuit women with a greater understanding of the criminal justice system. Break isolation. Forge ties with resource people in the community.
	Elders	Visits from Inuit elder(s). Discussions, sharing and traditional food.
Saint-Jérôme correctional facility	AA meetings for Inuit	AA meetings exclusively for Inuit.
	Inuit integration	Orientation and integration service for Inuit, with presentation of programs, work duties and explanations of their sentences.
	Art classes	Night class: Art therapy. Personal development; and Creation.
	<i>Inuit School</i>	Literacy and general training for Inuit, up to Grade 11.
	<i>Anger management</i>	Ongoing anger management awareness and accountability group for Inuit.

¹⁸⁷ Data received from Direction générale des services correctionnels, August 2015.

Open custody resources specific to Inuit

The following resources are funded by the Direction générale des services correctionnels. Other community resources for Inuit that are funded by other authorities are not included.

The Laurentians	Substance abuse treatment program	Adaptation of the rehabilitation centre's program for Inuit and Aboriginal client populations.
Amos correctional facility	Return home of Inuit and Cree	This program aims to facilitate the return home of Cree and Inuit people who have been released from the Amos correctional facility, thereby eliminating the risk of disorganization and re-offending.
	<i>Relapse Prevention Program</i>	Two group workshops followed by individual meetings for all participants. Objective: Allow them to express their pain and suffering with a view to providing support and healing.
	Themed activities	Activities adapted to the reality of Inuit. These activities revolve around the following themes: Reducing personal suffering, forgiveness process, self-confidence, and trust in others.

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