

# REPORT ON THE SITUATION OF THE ITINERANT COURT IN NUNAVIK



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Report prepared at the request of the President of the Makivik Corporation, Mr. Pita Aatami, and the Minister of Justice and Attorney General of Quebec, Mr. Simon Jolin-Barrette. The work was carried out in collaboration with the ministère de la Justice and all socio-judiciary partners.

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# ACRONYMS AND TERMS IN INUKTITUT

<b>ARHSSS</b>	<i>Act respecting health services and social services</i>
<b>ARLA</b>	<i>Act respecting legal aid and the provision of certain other legal services</i>
<b>CCJAT</b>	Centre communautaire juridique de l'Abitibi-Témiscamingue
<b>CDPDJ</b>	Commission des droits de la personne et des droits de la jeunesse
<b>CERP</b>	Commission d'enquête sur les relations entre les Autochtones et certains services publics
<b>CPJ</b>	Parajudicial advisor
<b>CQATP</b>	Court of Québec addiction treatment program
<b>Cr.C.</b>	<i>Criminal Code</i>
<b>CRO</b>	Community reintegration officer
<b>DYP</b>	Director of Youth protection
<b>GAMPA</b>	Indigeneous alternative measures program
<b>IC</b>	Itinerant Court in Nunavik
<b>Isuarsivik</b>	Regional recovery centre in Kuujjuaq
<b>JBNQA</b>	James Bay and Northern Quebec Agreement
<b>JC</b>	Justice Committee
<b>KRG</b>	Kativik Regional Government
<b>LA</b>	Legal aid
<b>MHB</b>	Municipal Housing Bureau
<b>MIT</b>	Mobile intervention team
<b>MJQ</b>	Ministère de la Justice du Québec
<b>MSP</b>	Ministère de la Sécurité publique
<b>NIMMIWG</b>	National Inquiry into Missing and Murdered Indigenous Women and Girls
<b>NIP</b>	Nunavimmi Ilaqit Papautauvinga – "Family council," providing support and protection for families in Nunavik
<b>NITSIQ</b>	Nunavik Wellness Court – pilot project under the CQATP to refer cases for alternative measures, operating in Puvirnituq under section 720 of the <i>Criminal Code</i>
<b>NRBHSS</b>	Nunavik Regional Board of Health and Social Services
<b>NRPS</b>	Nunavik Regional Police Service
<b>Nunavimmiut</b>	Inhabitants of Nunavik
<b>PAJ-SM</b>	Support program for people with mental health problems facing the justice system, under section 717 of the <i>Criminal Code</i>
<b>QAJAQ</b>	Support and assistance network for men in all communities
<b>SAQIJUQ</b>	"Change in the wind's direction" – a vast regional project for "social regulation" overseeing various programs including Nitsiq, MITs and the "Tundra" program
<b>SW</b>	Social worker
<b>UL</b>	Université Laval
<b>YCJA</b>	<i>Youth Criminal Justice Act</i>
<b>YP</b>	Youth protection
<b>YPA</b>	<i>Youth Protection Act</i>



# I HAVE BEEN ASKED BY THE PRESIDENT OF MAKIVIK CORPORATION, PITA AATAMI, AND QUÉBEC'S MINISTER OF JUSTICE TO PREPARE A REPORT ON THE OPERATION OF THE ITINERANT COURT IN NUNAVIK.

## PREAMBLE

The following paragraphs come from the preamble to the report "Blazing the Trail to a Better Future," published in 1993 in response to a unanimous resolution passed by Makivik Corporation in 1990.

What is wrong with the justice system in Nunavik? Just about everything. Current social, economic, cultural and political trends in Nunavik are all putting tremendous strain on the existing resources for the administration of justice.

These current trends include low levels of education; decline of traditional language and culture; increase in dependence on welfare; increase in rates of crimes; increase in drug and alcohol abuse, and high suicide rates among the youth.

There is a disproportionately high number of Inuit involved in the criminal system. There is also a serious relationship between alcohol and drug abuse and crime in Nunavik which strongly suggests that the current justice system is not effectively addressing the needs of Nunavik Inuit.

It is even not clear that more of the current justice resources would be a solution. Moreover, even after 20 years of application of the southern-type justice system in Nunavik, many Inuit still consider it a strange and foreign system for them.

Is this excerpt still relevant today? Has the situation changed since the report was published? My goal here is to present a realistic overview of the situation in 2022.

A number of reports have been drafted and published over the last 40 years concerning the administration of justice in Canada and in Québec. Many different academic studies have also been published, several focusing on Nunavik. Numerous recommendations have been made and countless problems identified.

It would be untrue to say that nothing has been attempted, but it seems just as fair to add that nothing much has generated the expected results. Although there has been some willingness to improve the justice services provided to citizens in the North, the actions taken have always had to conform to the rules governing institutions in the South.

At one of the first meetings about the justice system between the government and the Indigenous community, the Provincial Conference on Aboriginal People and Justice in 1976, the Indigenous chiefs lobbied for greater control over the administration of justice in their communities. This would have involved recognizing the sovereignty of their band councils and other Indigenous political organizations.

The discussions focused on the Indigenization\* of the justice system. Judge Robert Cliche of the Itinerant Court saw things from a new perspective when he stated that:

The ideal situation would be for special laws to be passed, based on Inuit tradition [...] to govern the New Québec region, and for the laws to be administered by the Aboriginal peoples [...] One day we will succeed in setting up a justice system that will be administered by you (the Aboriginal peoples), for which you will be responsible, a justice system on a human scale that will take into account your customs and your civilization. [Translation]

\* In this article, the term "Indigenization" is used with the meaning in which it was understood by stakeholders at the time, which referred to the policy for the integration, but not the inclusion, of Indigenous people and some of their cultural specificities into the system.

Speaking before the Royal Commission on Aboriginal Peoples, the Honourable Kim Campbell commented as follows:

It has not been easy for me to accept that, for some, our laws and our courts are viewed as instruments of oppression, rather than as mechanisms for the preservation of justice... I have come to learn that the administration of justice, despite the good intentions of most of the people who work within it, has often failed to meet the needs of Aboriginal people who, all too frequently, come into contact with our courts as offenders, as victims and as communities... I have learned that Aboriginal people are too often alienated by, and from, the existing justice system, and that many feel powerless even to participate in determining what will happen to people from their communities who have found themselves in conflict with the law.

Inuit elders recognize, and anthropologists have confirmed, that dispute resolution modes existed in the past in Inuit communities. (Rouland, Koperqualuk)

Rouland describes the situation as follows:

The true problem is repeat offences, rather than isolated acts, because reoffending can place the life of the community in jeopardy.

The main objective is to re-establish internal balance within the group. To achieve this, a new approach is needed, one that differs from the approach to which our judicial system has accustomed us, with the goal of ruling on the allocation of blame. More emphasis should be placed on rehabilitating the offender: various means of psychological pressure can be used before any concrete action is taken against the offender, depending, of course, on the seriousness of the offence. Before sanctioning individuals, we must try to get individuals to sanction themselves. [Translation]

It is of primary importance to recognize that the system, as it currently exists, has failed in many respects. Reoffending rates have not declined, the Inuit have not been included, and bridges with traditional dispute resolution methods have not been used.

At a meeting, one Inuk from Inukjuak addressed me directly:

You failed us, you made promises that were never held. You left us out of the system that you claimed was made to help us. We never felt welcomed in your system.

I must say that this came as a shock, but not as a surprise. The shock, for me, was to realize that I had been part of an inadequate system, based on colonialism, that maintained a form of racism—but I only realized this in hindsight.

Nunavik's current justice system is a set of rules that colonial policies have imposed upon them and which most Inuit neither agree with nor truly know.

(Report: Inuit women who work in Nunavik justice services, October 2019.)

"It may be possible, within a common system of criminal law, to take special precautions to see that the law is administered in such a manner that the values of the indigenous peoples are respected and to see that procedural injustice is not committed by inadvertence."

Cornelia Schuh, "Justice on the Northern Frontier: Early Murder Trials of Native Accused," Criminal Law Quarterly 1979-80, quoting from the Carrothers Commission report)

My name is Jean-Claude Latraverse and I have been a lawyer since 1993. From 1999 to 2019 I practised law in Nunavik, first at the legal aid bureau in Kuujjuaq from 1999 to 2005. During this period, I lived in the community, covering the villages of Ungava Bay and the Hudson Straight. After moving to Val-d'Or, I worked for the communities of Hudson Bay until the end of 2011.

In 2012, I moved to the office of the Director of Criminal and Penal Prosecutions (DCPP). I was initially responsible for the inner circuit of the communities in Eeyou Istchee, and then I worked in Kuujjuaq for two years when the DCPP office in the North closed. I was the last permanent public prosecutor to actually live in the North.

In the course of this report, I will reflect on my own personal experience, but also on the systemic problems and the perceptions people have of the Itinerant Court in Nunavik. Some people may find my comments harsh and take advantage of this to discredit my report. The goal of the report is not to cause offence, but simply to report on what I have seen and to share my experiences.

I have opted not to include too many quotes, to keep the text readable. All the books I used are listed at the end of the report.

My mandate is to set out possible solutions that can be put in place in the short term, and covers three aspects:

- Correct some of the delays and conditions experienced at sessions of the Itinerant Court.
- Optimize the pre-trial preparation of hearings, in both criminal and youth protection cases.
- Respond to the wish of the Inuit community to launch initiatives to promote active community involvement in dispute resolution.

The first two aspects are basically administrative, while the third targets greater inclusion for traditional Inuit dispute resolution methods and local initiatives in Nunavik communities. The many meetings I conducted in preparing this report all led me to the conclusion that this latter aspect is essential.

It is, in fact, essential for the justice system to be embodied in the Nunavimmiut themselves. For this to be achieved, the community must be involved and, above all, its involvement must be valued. Inclusion will only be successful if the interests and concerns of the Inuit are placed at the heart of all actions.

I will attempt to identify potential solutions to the repeatedly reported problems of the Itinerant Court. I will suggest actions for the short, medium and long terms. I will be frank and uncompromising, but will not single out any individuals. We all bear some responsibility for the unsuitability of the present system, whether public servants, defence lawyers, prosecutors and judges, or Inuit leaders.

I will share testimony without always naming the people who provided it.

I opted for this approach to give more freedom to the people I met. Too often in the past, people have spoken only on behalf of the institutions they represent. As a result, their discourse was circumscribed, and this is what I have tried to avoid.

I do not claim to have produced a report of great scientific rigour, nor do I believe I possess all the solutions. I will try to remain grounded and to propose ways to think about the situation that I believe offer promise for the future.

To write this report I consulted several previous reports, read a number of scientific articles, and listened to the testimony of the almost one hundred people I met for the purposes of my investigation. I wrote the report on my own, with no outside influences. I received assistance, but the opinions expressed here are mine and mine only.

# BACKGROUND

The Itinerant Court was created in 1975 as part of the *James Bay and Northern Quebec Agreement*, and reflects in large part a report filed in 1972 with the Minister at the time, Jérôme Choquette, called "The administration of justice beyond the 50<sup>th</sup> parallel." The Itinerant Court provided for in the Agreement was established gradually, beginning in 1980.

Over the years, several improvements were made to the Itinerant Court, the most significant of which followed in the wake of the Coutu Report in 1995. They concerned court facilities, means of communication, travel arrangements, various community justice initiatives, and so on.

The Director of Criminal and Penal Prosecutions opened an office in Kuujjuaq staffed by one permanent prosecutor and one assistant. This was quickly followed by a legal aid office, also staffed by one lawyer and one assistant.

Defence lawyers could prepare their cases before trial, and complainants could be seen by the prosecutor to prepare their testimony. As time passed, the relationship between the lawyers and the Inuit improved. Proximity made it easier for these people from the South to integrate into the community. We shared banquets, we did our grocery shopping locally, we went hunting or fishing, we went out on long snowmobile trips, and we played hockey with the Inuit (the defence lawyer during this period, Judge Stéphane Godri, was in goal and I became the referee). We took part in everyday life and we were in a position to see the light inside these incredibly warm people, which contrasted greatly with what we saw in court. The Inuit are relationship-focused and we were accepted... after a certain time, but then permanently.

When I was a legal aid lawyer, I travelled on non-court weeks to meet with clients and prepare their cases. I also took the opportunity to go on the airwaves on local radio stations to plan my work and the work of the court. The fact that I was in the community even when the court was not there impressed people and made contact easier without being rushed by the court schedule. I was often invited to tea with families, and I shared their traditional dishes. I remember making some completely unsuspected culinary discoveries. The women who shared food with me laughed when they saw me eating raw clams, as we sat together on cardboard boxes on the floor and ate traditional food.

On my return, with a better understanding of my client's position, I could begin discussions with my colleague the prosecutor. And when the court arrived in the community, we were ready to proceed!

This broader perspective allowed us to do our jobs in a way that was more in harmony with the needs of people facing the justice system. Our daily goal was to balance the rights of the accused with the needs of the complainant, and to maintain harmony within the community.

## An increasing caseload

In 2019-2020, according to the figures provided by the MJQ, 2,917 files were opened for 1,356 single offenders, out of a total population of 12,362 people as of December 31, 2019 (Statistics Canada). Given that almost 40% of the population is under the age of 18, the figures are alarming, and there is little variation from year to year. As a comparison, in the same year in the rest of Québec, 104,449 files were opened for 55,086 single offenders, out of a total population of 8,558,033 people (Institut de la statistique du Québec, January 1, 2022). These figures do not include alleged breaches of conditions for suspended sentences, since they have the same docket number as the original offence.

The statistics have been known for a long time and continue to increase. The over-representation of the Nunavimmiut in the court system is obvious, and leads to over-representation in prisons. The reoffending rate, in my experience, remains high.

What is the explanation for this situation?

There are many reasons, as the preamble to the report cited above makes clear. We can add another factor—the housing situation in Nunavik. Overcrowding contributes to these difficulties. It is hard to ensure protection for young women in a setting where alcohol abuse and violence are present. It is an illusion to think that the lack of privacy will not lead to disputes, and it is likely that if each person had their own house or apartment, tensions

would be reduced. Police officers in Puvirnituk, who are part of the Mobile Intervention Team (MIT), a program that pairs a social worker with a police officer for mental health interventions, have noted that it is easier to stop situations going from bad to worse when people can return to their own homes without disturbing anybody else.

The tendency of some prosecutors to authorize proceedings in all cases that meet the criteria, without looking at the advisability of laying charges, is another factor in the situation. Although the rate at which prosecutors decide not to lay charges is higher than in the rest of Québec, it is generally because of lack of evidence rather than a realization that this is not the best way to proceed.

The time needed to complete proceedings results in many offenders breaching their conditions (1,947 charges for the period 2019-2020, 1,736 for 2020-2021). A stricter application of the criteria set out in the decisions *Zora* and *Antic*, which led to legislative changes (sections 493.1 and 523.1 of the *Criminal Code*) should, however, considerably reduce the number of charges for breach of conditions authorized by prosecutors. The two decisions set guidelines for bail conditions: they must be easier to understand, general conditions such as "keeping the peace" must be avoided, and third persons must not be named in the wording of a condition. The conditions have to have a specific link with the charges. There is a difference between the fact that the offender had been drinking at the time of the alleged offence, and the fact that the offender always committed offences after drinking.

Of all these factors, the most significant is the over-consumption of alcohol. I am not qualified to explain why individuals resort to violence after drinking too much. The possible reasons include past trauma, the lack of future prospects, and a lack of education. For some people, drinking may reactivate pain, leading to a dissociation that makes it possible to wield violence against the weak. I cannot say whether excessive drinking is a consequence or a trigger. Based on my own experience, I can only note that a large majority of offences involving violence are committed under the influence of alcohol.

The Inuit have always complained about delays and the sometimes-exorbitant cost of lawyer fees. Most accused persons obtain legal aid for their defence, whether from lawyers at the Centre juridique de l'Abitibi-Témiscamingue or from lawyers in private practice.

#### What is the actual situation?

The statistics show that delays are, more or less, the same as in the South, but the inconvenience and impacts experienced are not comparable. When a case is postponed five times, it may involve a delay of over two years in some communities. The statistics do not take into account the fact that, in many cases, offenders are held in custody. On average, the various circuits deal with 20 cases per week involving an offender in custody, and these cases must be dealt with swiftly. The figures do not reflect the actual situation for people facing the justice system in Nunavik.

Delays sometimes occur when the court cannot travel to a community because of bad weather or a mechanical breakdown (routine delays), or because a lawyer has filed an application for postponement. Delays in the preparation of pre-sentencing or Gladue reports are also a factor. The probation service, and Gladue report writers, frequently do not have time to prepare their reports. Hearings also have to be postponed because clients are absent or witnesses are not in the right community or have left for medical reasons, to give birth, to travel for work shifts that involve two weeks at a mine and two weeks at home, etc. There are also so-called pre-charge delays that can be quite long and depend on the nature and complexity of a given case.

The pandemic has also had an impact, despite the efforts made to organize virtual court hearings.

Without conducting a socio-anthropological study of Inuit society, it still is generally recognized that the Inuit do not have the same sense of time. To preserve harmony within the community, elders were careful to resolve disputes quickly. For reasons of survival, it was important to move on, because a lack of harmony within the group could not be tolerated for long. The survival of the community depended on the swift re-establishment of peace between various groups.

How many times have I heard people complain about having to go back to an event that occurred such a long time ago? People have moved on. They have forgiven each other and continued with their lives. However, the system requires us to return to the events to settle the dispute in accordance with the idea of justice. We force people to face sometimes painful memories that they have tried to bury in order to restore a balance in all spheres of their lives (cultural, emotional, spiritual and physical).

In Nunavut, judges are known in Inuktitut as "those who speak of things long past."

Please allow me to tell you the story of Richard A.

Several years ago, Richard, who at the time was a young police officer in his community, was charged with assault on an individual who was mistreating his mother (he was not on duty at the time). His case followed its normal course and Richard, who admitted the facts, wanted it to be settled as quickly as possible.

I began discussions with the prosecutor, and we came to an agreement. Although the case had been in the system for a while, the prosecutor suddenly realized that it concerned a former police officer and refused to process it, even though she had never dealt with Richard as a police officer. We had a joint submission to present to the judge, but she still decided to postpone the case. If she had been a bit more aware of who was who in the community, she could probably have planned ahead.

Richard A. left the court, went home, picked up a firearm, apologized to his brothers and sisters and shot himself in the head. He did not survive.

I learned of his death before boarding the court plane to return to Kuujjuaq. When Zebedee, the other police officer in the village, told me the sad news, I was devastated and angry. I still am. Who knows what would have happened if we had been able to close the file that day? Although the prosecutor cannot be blamed for anything, the postponement of the case clearly had an impact.

Delay creates unimaginable stress for the Inuit. Everyone who lives in a community in Nunavik tells us this, and not just for people accused of a crime. Victims also experience stress, along with their entire families. In small communities, there is a level of anxiety before the court arrives. Police officers, social workers and mayors have often spoken to me about the nervousness that becomes apparent as the court date approaches.

To reduce excessively long delays, the Criminal Division of the Court of Québec has increased the number of its sessions almost every year over the last 20 years. It now sits every other week in Kuujjuaq and communities on the same circuit. And that is just for the Criminal and Penal Division of the Court of Québec; the Youth Division and Superior Court also hold hearings. The upcoming calendar lists 15 weeks of Court of Québec criminal hearings, 6 weeks of Superior Court assizes, and 10 weeks of Youth Protection hearings in Kuujjuaq and Ungava Bay, along with 23 weeks of Court of Québec criminal hearings, 10 weeks of Superior Court assizes, and 12 weeks of Youth Protection hearings in Hudson Bay.

This has had practically no impact on reducing the average delay, but only increased the exhaustion of workers in the court system. The pool of defence lawyers practising in the North is small. They barely have time to return to their offices to prepare their cases before the court begins to examine them. Prosecutors face the same problem. How can they authorize and prepare cases when the court will be back in such a short time? How can they respect their duty to victims if they always have their foot on the gas? Court services also suffer. Minutes from hearings are seldom available quickly, delaying payments to lawyers working on legal aid mandates, and the dockets are drawn up at the last minute. This creates problems for prosecutors trying to prepare cases. Entries in the record are not made immediately, leading to other problems for the court and for police services.

Everyone is overworked, with the result that clerks, defence lawyers and prosecutors are all exhausted and demoralized. Health problems are common and are followed by sick leave.



# THE PROCEDURE FOR COURT SESSIONS

We can now turn to the normal procedure for court sessions in Nunavik.

The court staff generally arrive late on Monday morning. The passengers on the chartered flight go to their hotel to check in and get something to eat. They then go to the courthouse. Lawyers from the South and, sometimes, the judge arrive on a commercial flight early on Monday afternoon.

The prosecutors make contact with the witnesses to set up a meeting to prepare their testimony. The defence lawyers meet with their clients, if present.

In the small courthouse in Kuujjuaq, defendants are lined up in the narrow corridor leading to the courtroom, waiting for their lawyers. It can be quite intimidating to make one's way through this massed crowd in such a restricted space.

When everyone is ready, the court can begin to sit. When everything goes according to plan, this occurs around 2 p.m. But things seldom go to plan!

Calling the docket takes a certain amount of time. Depending on the number of cases on the docket, it can last between 90 minutes and two hours. This is a time-consuming process because cases are, most of the time, kept at the end of the docket. The lawyers have not met with all of their clients, the positions on the next steps have not been defined, the clients are not present or offenders, witnesses and victims from other communities have not yet arrived. Because of the flight schedule, people from Tasiujaq or Aupaluk arrive around 3:30 p.m.

A majority of cases are postponed to later in the week or to the next session. This is not due to an unwillingness to deal with the substance of the cases, but because of a lack of time. Sometimes a legal aid mandate has not been issued, for many different reasons (I will return to this topic later).

The calling of the docket serves no purpose, except for new appearances.

It would be more practical to begin by calling only new appearances. To do this, the court office could prepare two dockets for these court days—one for new appearances (summons, promises to appear, release orders), and one for *pro forma* appearances. The time saved, at the start of the court session, would allow more time to be spent with clients, settle some cases and negotiate agreements between the parties. The cases remaining on the docket could be called at the end of the sitting to be dealt with (postponement, withdrawal of charges, issue of arrest warrants, etc.).

When the court travels to another community during the week, even more time is lost. The lawyers for both parties have not met with their clients/complainants, and ask for their cases to be placed at the end of the docket to give them time to prepare. They need more time. If the work had been done in advance, if the lawyers had travelled to the community before the court, everything would move faster and more cases could be dealt with. This would reduce the delays.

In an ideal world, the court would organize a docket management session the previous week. Defence lawyers and prosecutors would have arrived in the community that week to prepare their cases, meet with their clients or witnesses, and negotiate. This would also require the assistance of the KRG and Makivik to ensure that parajudicial workers and Sapumijiit agents are present. It should be noted here that in principle, an offer of quick settlement is included in the disclosure of evidence given to the defence. The comments made by the Chief Prosecutor for the Abitibi-Témiscamingue region suggest that this is not always the case. It is sometimes a difficult thing for a young prosecutor to do, given his or her lack of experience and points of reference and the fact that some offenders have accumulated a stack of charges. Sometimes a Gladue report or pre-sentencing report is still missing from the file.

For private-sector lawyers, the MJQ or the legal aid division could cover travel, accommodation and daily allowance costs. A case preparation rate could be applied to make this attractive.

I believe it is necessary to remind lawyers of their ethical obligation to prepare their cases, explain possible recourses and/or the consequences of a plea, and ensure that offenders understand how the case will proceed.

One of the most frequently heard complaints is that people have not understood what is happening, have only had a few minutes to meet with their lawyer, and feel rushed.

I should add that the system is still, to a large extent, poorly understood by the Inuit.

I have raised this concern with the *Bâtonnière* who was open to the idea of the *Barreau du Québec* intervening with its members (I will come back later to the question of the Barreau).

**I recommend:**

- 1 THAT DOCKET MANAGEMENT SESSIONS BE ADDED FOR THE COURT OF QUÉBEC, BASED ON A CALENDAR DRAWN UP BY JUDGES.**

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- 2 THAT TWO DOCKETS BE PREPARED BY THE COURT ADMINISTRATION, ONE FOR NEW APPEARANCES AND THE OTHER FOR STATING A POSITION ON A CASE, FOR COURT DAYS ON MONDAYS AND COURT DAYS IN THE COMMUNITIES VISITED DURING THE WEEK.**

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- 3 THAT DEFENCE LAWYERS AND PROSECUTORS TRAVEL TO THE MAIN COMMUNITY AND THE COMMUNITIES VISITED TO PREPARE THEIR CASES BEFORE THE COURT SESSION.**

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- 4 THAT AN AGREEMENT BE ENTERED INTO BY LAWYERS IN PRIVATE PRACTICE AND THE COMMISSION DES SERVICES JURIDIQUES OR THE CENTRE COMMUNAUTAIRE JURIDIQUE DE L'ABITIBI-TÉMISCAMINGUE AND THE MJQ TO ALLOW THE LAWYERS TO TRAVEL TO COMMUNITIES IN THE WEEKS PRIOR TO COURT SESSIONS.**

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- 5 THAT PARAJUDICIAL WORKERS AND SAPUMIJIIT AGENTS HELP LAWYERS ARRANGE MEETINGS WITH CLIENTS.**

I mentioned the case of offenders in the communities that the court does not visit, of which there are 5. The court issues a plane ticket for offenders who must appear before the court, who must also stay for two or three days in the central community (Kuujjuaq, Kuujjuarapik, Puvirnituq or Salluit). I know that flights chartered by the MJQ are available for return trips, on the same day, for offenders. The DCPP should do the same for witnesses and complainants. The current situation places the court under pressure to deal with these cases as a priority.

All of this generates high costs, of around \$200,000 each year (according to the MJQ), for travel, accommodation and daily meal allowances. It also has an impact on people due to appear before the court, who must leave their home, family and workplace to obey their summons.

The court should, in compliance with the James Bay and Northern Québec Agreement, travel to all 14 communities. Some lack suitable premises, but the local population wants the court to be present. Similarly, some communities could be visited for more than one day at a time. The community of Kangiqsujuaq has two hotels, with over 40 rooms for rent. When the court calendar is drawn up, the organizers could reserve rooms ahead of time to accommodate members of the court and schedule more than one day of hearings. I note that, on the next court schedule, the court will sit in Kangiqsujuaq for a three-day period.

We used to go to Umiujaq and Akulivik until the schools in which the court sat refused to house us. They had to call a professional development day to free up the rooms, but only too often the court did not travel because of bad weather or a mechanical breakdown. This caused logistical problems and lost time for the schools concerned.

The option of travelling to these non-served communities should be considered, at least when offences that have had an impact on community members are due to be sentenced. If this is not possible, a video call should be organized so that the community can witness the sentencing. A room can always be made available in an emergency, even if it is not suitable for holding regular court sittings.

This is the price that must be paid in order to be able to say that the court is accessible and public and to meet the general criterion of deterrence, and also allow the parties to have their witnesses heard.

The Superior Court sits in the three communities named in a government order: Kuujjuaq, Puvirnituq and Kuujjuarapik. In reality, there is no longer a courthouse in Kuujjuarapik, since it is in the community of Whapmagoustui, on the Cree side. The Superior Court should consider the possibility of sitting in the community where the crime was committed, when the case is on the docket for a plea of guilty and still under the court's jurisdiction. The crimes involved are generally those that have had a significant impact on the community, and people need to have an opportunity to hear the plea to know what actually happened and to hear testimony about the effect of the crime on the community's residents.

It would be possible to build rooms for virtual appearances in communities in all the communities, as a sort of extension of the courtroom. People would simply have to travel to that place to face the judge for appearances, postponements and the settlement of some offences. For witnesses, the defence lawyers I met were generally in favour of making it possible for some testimony to be given by video call. Sections 715.23(1) and 715.25 establish the relevant procedure.

In a similar vein, bad weather or mechanical problems sometimes prevent the court from travelling to communities as planned during the week. For example, during the week of May 9, 2022, the court was scheduled to travel to Kangiqsualujjuaq, but was unable to do so because of a problem with the toilets in the building where the court sits in the community. Two days of hearings were scheduled on May 10 and 11. The effect in terms of delays and the impact on the Inuit is incalculable. Luckily, the court administration allowed the people concerned to travel to Kuujjuaq to reduce the inconvenience.

Labrador faces a similar situation with its Itinerant Court circuit. It has established a modern way of dealing with some of these obstacles by organizing virtual court sessions, similar to those that have been held in Opitciwan for almost two years. Cases are called, settlements are made and postponements are recorded. Conditions can be changed and charges can be withdrawn. Applying this approach would have an impact on offenders, witnesses and victims and avoid over-long delays before the next visit of the court to the community.

Often, in Nunavik, the court does not visit communities for months at a time, and sometimes up to a year and a half, for all kinds of reasons. It is easy to imagine the strain this places on offenders, who often have to comply with conditions in a situation beyond their control. This is in addition to the fact, mentioned previously, that the Inuit like to settle disputes as quickly as possible.

The contributions of parajudicial advisors and, in some cases, police officers or security agents will be needed to ensure that these operations proceed smoothly and that personal safety is assured.

The court administration will have to discuss the situation with the appropriate authorities (KRG, Makivik, KMHB, NRBHSS) and coordinate work with them for new constructions or renovations to existing buildings. It may be advantageous to take advantage of the construction of new police stations to set up videoconferencing rooms close to the front door, in addition to the interrogation room. This would allow offenders to appear and speak to their lawyers and would also allow families to talk to people in detention in the South.

CLSCs already have rooms equipped for remote medical consultations. However, providing access for court sittings would be difficult, because people would have to come through the medical institution and this could hinder nursing care.

The NRBHSS has, or will soon have, a room in the new CLSC in the community of Aupaluk. The room, called the "multifunctional space", results from discussions between the NRBHSS and the MJQ, which have led to plans to

equip a number of offices providing access to certain justice services through videoconferencing. Unfortunately, the COVID pandemic in the community has delayed implementation, but this is a solution that should be seriously considered in other communities where buildings will be provided. It is also important to ensure increased collaboration between the MJQ and the Inuit authorities concerned in order to guarantee access to services.

The NRBHSS also has agreements with an Internet service provider (Tamaani) and purchases a considerable amount of data. I understand that the bandwidth is already heavily used, but mostly in the evenings, and so slower download speeds and other disturbances caused by court services would be less of a problem.

The court would have to determine specific hours so as not to occupy the bandwidth every day for several hours.

When I was in Kuujjuaq for a Youth Protection session, there was an office with a connection to the court sitting in Salluit. This allowed an interpreter in Kuujjuaq to intervene if required. I was there for an hour (during the break in court proceedings) and the connection was strong, with no interruptions.

Some people may say that the Internet service is slow and impractical and that setting up rooms for video appearances or testimony is difficult and even impossible at present. However, solutions exist. The NRBHSS has found a way around the problems. The new STARLINK Internet connection will soon be available and is very efficient. A fibre-optic cable will be available shortly in Puvirnituq and communities in the south of Hudson Bay, and will eventually extend to certain communities in Ungava Bay. This will free up bandwidth for existing satellite facilities, but not immediately. In the meantime, Québec's ministère de la Justice (MJQ) must address the issues and find solutions instead of focusing only on the problems.

**I recommend:**

- 6 THAT THE MINISTÈRE DE LA JUSTICE, WORKING CLOSELY WITH THE INUIT ORGANIZATIONS CONCERNED, DRAFT AN IMPLEMENTATION PLAN TO INCREASE THE PACE OF DEVELOPMENT OF VIRTUAL HEARING ROOMS IN COMMUNITIES.**
- 7 THAT THE COURT OF QUÉBEC DEFINE A SPECIAL CALENDAR FOR THE NEW FACILITIES AND EQUIPMENT AS AND WHEN THEY BECOME AVAILABLE, IN ORDER TO USE VIRTUAL COMMUNICATIONS WHENEVER POSSIBLE TO ACCELERATE THE PROCESSING OF CERTAIN CASES AND REDUCE THE NEED FOR PEOPLE TO TRAVEL TO COURT.**
- 8 THAT THE COURT HOLD OCCASIONAL COURT SESSIONS IN THE COMMUNITIES OF TASIUJAQ, AUPALUK, UMIUJAQ, AKULIVIK AND IVUJIVIK.**
- 9 THAT THE MINISTER OF JUSTICE MAKE AN ORDER ALLOWING THE SUPERIOR COURT TO SIT IN COMMUNITIES WHERE SERIOUS CRIMES ARE COMMITTED.**

To get back to the typical court week—the rest of the week is dedicated to trials and, most of the time, involves travelling to another community. Priority is given to offenders in custody, even if the dockets are full. Some dockets have been full for quite some time.

People in custody are often heard more quickly in Nunavik than in other districts in Québec. Some people will find this only fair, and they are right to do so, because the time spent on remand does nothing to help offenders rehabilitate or take responsibility for their actions. However, the cases of other citizens, who comply with their conditions, if any, and with the law but who are not in custody, cannot be heard within a reasonable time. Ways must be found to operate differently while respecting the right of individuals to be heard without unreasonable delay.

One of the solutions I propose is to organize two-week court sessions at certain times of the year in Kuujjuaq. The first week would be for offenders in custody and settlements, while the second week would be for trials, sentencing arguments and motions. Ideally, the court would remain on-site between the two weeks to allow defence lawyers and prosecutors to meet with witnesses and prepare for trials. All of this would demonstrate the court's interest in serving the citizens of Nunavik.

The problem is that most trials simply do not go ahead. Around 83% of scheduled cases are settled before trial, and another 10% end with a plea of guilty on the first day of the trial (MJQ data). The week is often poorly utilized—there should be an assurance that a trial will truly go ahead or that motions that require more time need to be heard.

Some players in the court system have indicated their interest in running two courtrooms at the same time. The idea has potential, but would be difficult to implement because of the lack of space in the courthouses in Kuujjuaq, Kuujjuarapik and Puvirnituq.

Another way to shorten the dockets and avoid postponing cases would be to plan two periods for settling cases, virtually, during the court week. While the court proceeds with trials with a prosecutor and a defence lawyer, another prosecutor could be in a videoconferencing room with other defence lawyers to advance their cases. A judge anywhere in Québec, working with an interpreter, could log on to the virtual court and hear joint submissions from the parties, certify them and, if applicable, impose a sentence.

It would clearly be simpler to move the video devices to another part of the courthouse and hear settlements, arguments with requests for a report, and postponements.

**I recommend:**

- 10 THAT THE COURT SCHEDULE TWO OR THREE WEEKS IN THE CALENDAR TO HOLD TRIALS AND HEAR MOTIONS (*I KNOW THAT AN ANNOUNCEMENT HAS BEEN MADE ON THIS TOPIC*).**
- 11 THAT THE COURT SCHEDULE SESSIONS OF TWO SUCCESSIVE WEEKS IN THE SAME COMMUNITY.**
- 12 THAT THE COURT USE EXISTING TECHNOLOGY TO SCHEDULE TWO THREE-HOUR VIRTUAL PERIODS PER TERM FOR JOINT SUBMISSIONS OR POSTPONEMENTS.**
- 13 THAT THE COURT AGREE TO PROCEED USING A MEANS OF TELECOMMUNICATION WHEN IT CANNOT TRAVEL TO A COMMUNITY.**

Obviously, this will only be possible if there is willingness on all sides. We need to think outside the box, to innovate, to take action!

This kind of technology is already used for weekend appearances throughout Québec, and is used for bail hearings in Amos. It was even used by the court in Nunavik during the pandemic and the resulting prohibition on travelling. Most urgent motions in the field of Youth Protection are also heard by video call. This is not a perfect solution, but it is effective.

#### **How to control the input?**

It is clear that Indigenous people are more likely to appear in court than non-Indigenous people.

Obviously, reducing the number of cases before the court would give both the Inuit and court staff more breathing space.

This can be achieved in various ways. The first step would be to continue to deploy assistance services at an early stage—more comprehensive social services, and more support programs for addicts, adapted to the needs of the Inuit. The court is on the front line and few services seem to exist prior to and in support of the court. Saqijuq and the Isuarsivik Centre have just begun to offer programs to combat drug addiction and other social problems. The deployment must continue. Obviously, in addition, better justice services must be made available.



## THE DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS

The system must be more open to less heavy-handed ways of dealing with offences of lesser importance. Here, the Director of Criminal and Penal Prosecutions (DCPP), the police services and the Inuit community justice authorities have all the tools they need to avoid laying charges in every single case.

During my investigation, I met with Québec's Director of Criminal and Penal Prosecutions, as well as the chief prosecutor and associate chief prosecutor in the Nord-du-Québec office. They were all open to discussing possible solutions, and a new approach within the institution appears to be bringing a wave of changes that will be beneficial both for the DCPP and for the citizens involved in the justice system. Some recent initiatives suggest that the DCPP will do everything possible to find solutions. I believe the organization is in a position to take corrective action to improve the quality of the services provided for the population in Nunavik. The DCPP works with Makivik Corporation to ensure that prosecutors have a better understanding of Inuit communities.

I also discussed the situation with prosecutors working, or who previously worked, in Nunavik. They are clearly distressed. Every day, they have to try to regain their confidence as they face enormous challenges, numerous obstacles and a lack of support. They must deal with the same difficulties as other people in terms of isolation, remoteness and workload, often without seeing any positive impact on Inuit society. They must constantly summon the energy needed to rally victims and court workers to allow cases to progress. They are in the front line and have to work with the evidence submitted by the police, while chasing after additional elements. They must persuade victims to continue with their cases, despite the postponements. They must resist pressure from judges, because they are responsible for preparing the court dockets.

All of this is hard to accept for lawyers of long standing, and even more so for newly qualified lawyers.

The next few paragraphs are in no way intended as a judgment concerning the quality of the effort they make to perform their duties.

All criminal and penal prosecuting attorneys (referred to here as "prosecutors") must comply with directives, which are guidelines to ensure that the law is applied as evenly as possible throughout Québec. However, the idea of creating guidelines specifically for Indigenous communities, as is the case for major social issues in our society, has previously been considered. The DCPP has already added details to its directives to take Inuit realities into account (Acc-3, par.6l and par.28, Cap-1 par 9 and 14, Vic-1 par. 6)

Directive NOJ-1 lays out the rules for dealing with certain offences on a non-judicial basis. It takes into account that while some types of behaviour must be severely punished by the courts, others deserve a more social approach without compromising the fundamental values of society. The Directive states that

"Relying systematically on criminal proceedings to punish less serious offences may undermine the deterrent effect of court proceedings on offenders". (NOJ-1 Directives du DCPP [Translation])

A number of criteria must be applied before using this approach. The Directive lists the offences that should be dealt with on a non-judicial basis if various conditions are met. The criteria are codified with respect to the factors for assessment and for exclusion from the program.

This is where the approach falls short.

Given the high reoffending rate, the large number of cases in which judicial action is taken, and pending cases, Inuit offenders are generally not eligible for the program.

However, prosecutors can authorize eligibility for the program after an information is laid if they believe that it is justified in the circumstances. Some prosecutors are more willing than others to apply the program measures. Some prosecutors have criticized the measures ordered by the justice committee. Making mittens for the community is, in their view, a measure that is too indulgent. I disagree! First, well-made mittens donated to organizations that distribute them to people in need will clearly have an impact. Second, the people concerned are supervised by members of the justice committee, and through their discussions with them may begin to understand more about how to take control of their lives and of the behaviour that led to their involvement with the justice committee in the first place. However, for this to occur, prosecutors must be able to rely on a strong, stable and accountable justice committee.

In any event, it does nothing to reduce the delay between the filing of the request to institute proceedings and the appearance in court. The shortage of prosecutors at the Amos office only adds to the problem. Several months may elapse between the incident and the processing of the offence by the court. Prosecutors have up to twelve months to institute proceedings.

Another approach must be identified, with assistance from the police, to apply the Beaudry decision of the Supreme Court (*R. V. Beaudry [2007] 1 SCR 190*), which recognizes the principle of discretion in submitting a case for indictment. The police could divert files, with consent from the offender and the complainant, to a justice committee with strong ties to the community, in compliance with the protocols signed by the DCPP with the justice committees.

The effect would be immediate. Offenders would be taken in charge quickly, and the committee could propose a way to sanction the offence in a way that matches the needs of the offender, the victims and the community. If, however, the offender failed to comply with the committee's directions, the case could be returned to follow its normal course before the court, and the information provided by the offender could not be used in any future criminal proceedings. This approach would reduce the delay between the time when the file is sent to the DCPP and the time needed by the prosecutor to process it. Only too often, decisions about whether to send a file to the justice committee are made on the day the court is sitting.

This new approach would also be closer to the traditional way of managing disputes.

Other key points are found in ACC-3, paragraphs 3 and 4, and PEI-3.

Paragraph 3 states that the prosecutor MUST give first preference, if possible in the circumstances, to alternative measures, of which there are several in the North as I will discuss below.

Paragraph 4 asks prosecutors to study the factors supporting the institution of proceedings in terms of the public interest. Here, the focus should be on crimes involving violence or having an impact on the community.

Directive PEI-3 specifies that prosecutors must take into account the specific factors relating to an Indigenous offender when imposing a minimum sentence.

The court dockets are full of cases of lesser importance, taking up court time that could be put to better use.

The objectives of the indigenous alternative measures program for adults are worthy and could provide a way for the Inuit to take back a degree of control over the dispute resolution process. The offences covered could include offences against the administration of justice and even domestic violence, with the consent of the complainant. The Director of Criminal and Penal Prosecutions is currently discussing, with Makivik Corporation, the question of including conjugal violence offences in the program, as is already the case in 5 other communities (Aupaluk, Inukjuak, Puvirnituq, Kuujjuarapik and Salluit).

Under section 720 of the *Criminal Code*, a guilty plea must be entered before an offender can benefit from a program to deal with the addiction problem outside the court system, like Nitsiq. This can take time, and the offender may lose motivation. I believe that some of the parameters should be changed to allow offenders to sign up for the available alternative measures programs as soon as an information is laid. This would make them aware, immediately, of the underlying causes for their criminal behaviour and reduce the risk of reoffending while court proceedings are under way.

This would also require prosecutors to give up some of their control. The tools exist, but prosecutors, who are increasingly young, find them difficult to use. Section 810 should be used more often, in collaboration with the justice committee and other local authorities (such as the QAJAQ network) in cases where the complainant desists or no longer wants to testify. At least the complainant would be protected by the conditions for the duration of the court order. This occurs frequently in the South, but not in the North.

A stricter application of the criteria set out in the decisions *Zora* and *Antic*, which led to legislative changes to sections 493.1 and 523.1, should also lead to a significant reduction in the number of charges for breach of conditions (1,947 in 2019-2020 and 1,736 in 2020-2021). I have seen, first-hand, the effect of conditions requiring a person to refrain from drinking. People walking down the street, intoxicated, were arrested and ordered to appear

without having committed an actual offence. If there had been a place to hold intoxicated individuals (like a drunk tank), there would have been no need to place them in a police cell, and the public would still have been protected.

After several such breaches, people were transported to the South because the prosecutor objected to their release. The judge, noting the number of breaches, even if they were minor, order their continued detention. In court, it was impossible to deal only with the breaches because of the pressure to get a guilty plea for all the charges. Even if a defence could have been presented on the basis of the bail conditions, the time elapsed would have made the sentence unreasonable.

The aim is not to promote a parallel justice system or to create two types of offenders, but rather to provide for significant differences in sociocultural terms and to reduce the number of Indigenous offenders appearing before the courts by giving priority to alternative measures.

The offences that can lead to the application of alternative measures are listed. It would, perhaps, be appropriate to follow the system used for young offenders and to list certain offences for mandatory referral to the justice committees.

The Minister should look at the possibility of applying section 320.23 of the *Criminal Code*, which authorizes the postponement of sentencing to allow an offender to register for a treatment program that has been approved by the offender's province of residence. Programs exist in other provinces to postpone sentencing for offenders found guilty of an offence under paragraphs 320.14(1) and 320.15(1) (impaired driving or refusal) of the *Criminal Code*. The relevant provisions could be added to the indigenous alternative measures program for adults, the Court of Québec addiction treatment program, or the mental health program (717 C. cr.). It would be appropriate to establish a program including this range of legal solutions to support practice in the field, which tends towards a flexible integration of services. The fact that sentences in this area have little impact suggests that the offences should be included in a broader program, as indicated by the legislation. In short, a program of a more holistic type, in terms of both services and the legal approach, would be more suitable in Nunavik.

In Nunavik there are, year in year out, 350 cases involving impaired driving. There is a lot of re-offending and prison sentences are imposed. A significant percentage of women face such prison sentences. In addition to the fact that a prison sentence of less than 90 days does not lead to rehabilitation, because no programs are available, the sentences must be served continuously because of the lack of appropriate facilities, making it unfair compared to the sentences served by offenders in the South. Suspended sentences could reduce this impact. In addition, Inuit offenders cannot benefit from the program based on the installation of an interlock device in their vehicle, placing them at a double disadvantage. If a service of this kind existed in Nunavik, organizations could install an interlock device in some of their vehicles to avoid interrupting services to the community. When the only employee able to operate a given type of vehicle is found guilty of a driving offence, the whole community suffers.

Participating in a program and completing it successfully would have a clearly beneficial effect. It would offer more possibilities for rehabilitation and would reduce the number of Inuit individuals in prison in the South.

The measure could apply to all the residents of regions with no connection to Québec's road network and with no detention facility for serving intermittent sentences.

I know that this goes against the Minister's plan, but I believe it would be a good idea to review the current guidelines. Despite the effort made by the DCPP to adapt the directives to the realities experienced in Indigenous communities following the Viens Commission report, further adjustments are needed. Obviously, because the directives must comply with the Minister's guidelines, we have reached the point where we wonder if it is not time to issue a ministerial guideline specifically for Indigenous communities, to allow the DCPP to define specific directives for them and highlight the fundamental difference between Indigenous and non-Indigenous people.

**I recommend:**

- 14 THAT THE CRITERIA FOR THE NON-JUDICIAL TREATMENT OF OFFENCES BE CHANGED TO BETTER REFLECT THE SPECIFIC SITUATION OF THE NUNAVIMMIUT.**
- 15 THAT THE DIRECTIVES FOR PROSECUTORS APPOINTED BY THE DCPP BE STRENGTHENED TO REQUIRE THEM TO CONSIDER ALTERNATIVE MEASURES RATHER THAN LAY CHARGES.**
- 16 THAT THE MINISTER OF JUSTICE ALLOW THE APPLICATION OF SECTION 320.23 OF THE CRIMINAL CODE AND ACCEPT THE PRINCIPLES IT STATES.**
- 17 THAT A MINISTERIAL GUIDELINE SPECIFICALLY FOR INUIT AND FIRST NATIONS COMMUNITIES BE CONSIDERED, TO ALLOW A DIRECTIVE TO BE MADE THAT BETTER REFLECTS THE NEEDS OF INDIGENOUS PEOPLE.**
- 18 THAT THE INDIGENOUS ALTERNATIVE MEASURES PROGRAM FOR ADULTS BE BROADENED TO INCLUDE OFFENCES RELATING TO THE ADMINISTRATION OF JUSTICE AND THE OPERATION OF A VEHICLE.**
- 19 THAT THE CRITERIA BE CHANGED TO ALLOW OFFENDERS TO JOIN A PROGRAM UNDER THE ALTERNATIVE MEASURES PROGRAM.**

The preparation of court files is a daily challenge for both prosecutors and their defence colleagues.

Prosecutors have difficulty meeting with complainants in person prior to trial, and meetings are sometimes impossible. Although they fulfill their duties towards victims, they do so using means of communications that do not offer optimal conditions. Attempts are made to contact complainants before each court session but they are hard to reach—their address may have changed, they may have a different phone number, or their phone line may have been cut off for a missed payment. This shows the effect of passing time—over one or two years, many things change. Life goes on! In addition, the police service does not include complainants' contact information on requests to institute proceedings. This should be mandatory.

The DCPP should hire Inuit paralegals to provide a connection with witnesses and victims. A similar service already exists in Nunavut and in the Northwest Territories for federal Crown prosecutors. The program is known as the "Crown Witness Coordinator Program" and is dispensed by Indigenous people who speak the language of the witness and/or victim.

These people work closely with Crown prosecutors and travel to communities during each court circuit to assist victims and witnesses. They provide updates to the court, support witnesses and assist in the preparation of trials. In Québec, they could act as liaison officers between prosecutors, victims, witnesses and Sapumijiit agents.

Their tasks would also lighten the load on prosecutors, who could then look after business in court. Imagine if the paralegal has already met with the witnesses and victims, reread the statements with the witnesses to prepare them for testifying, and relayed the relevant information to the prosecutor. As a DCPP employee, the person would

be even more effective, because he or she would be working in an office in close contact with the prosecutors. The rights of victims and witnesses and the DCPP guidelines would be respected. The person could, for example, explain to witnesses why they have to testify even if they have already made a statement to the police, what to expect from the other party, why there are other people in the courtroom, and so on.

In the South, the police officer responsible for a given case makes contact with the victim, reviews the statements and ensures attendance at court. In some districts there are agreements in place between the police and Sapumijjut agents.

The paralegals could travel with prosecutors. Contacts with witnesses would be facilitated, especially if the witnesses speak only an Inuktitut.

The Sapumijjut agents could focus on their role of providing support for victims, following up on compensation for victims of crime, and meeting with citizens to explain their entitlement to services. They could also work more closely with Inuit social services.

#### I recommend:

## **20 THAT PARALEGALS BE HIRED TO WORK EXCLUSIVELY FOR THE PROSECUTION AND PROVIDE LIAISON BETWEEN PROSECUTORS, WITNESSES AND VICTIMS.**

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## **21 THAT INTERPRETERS/TRANSLATORS BE HIRED TO WORK EXCLUSIVELY WITH PROSECUTORS.**

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The best solution would clearly be to reopen the DCPP office in the North. In my opinion, justice cannot be rendered effectively without people on the ground. However, this would require a review of DCPP operations. Working in Nunavik is hard, for obvious reasons of distance and isolation. I believe it would be a better solution to rotate teams of prosecutors through the offices in Nunavik.

This constant presence in the North would have several advantages. It would facilitate the vertically integrated approach to prosecution that is so important in cases of domestic violence and sexual assault. In a vertically integrated prosecution, the same prosecutor has responsibility for the case throughout the proceedings, and the victim deals with the same prosecutor. It would be easier to maintain links with other social and judicial players. The trust gained would facilitate interactions between the prosecutor and the community.

It is vitally important to maintain a connection between the victim and the prosecutor on the case. Victims find it difficult when they have to interact with more than one prosecutor, repeating their story each time.

Obviously, in a vertically integrated approach, judges would have to agree to participate. However, some prosecutors have told me that it is sometimes hard, at present, to convince judges of anything because of their lack of collaboration. Judges often refuse to grant a request for a trial date, even when this would ensure that the same prosecutor can continue to deal with the case. Judges must be made aware of the importance of facilitating vertically integrated prosecutions.

If they were on-site in the Nunavik office, prosecutors could go out to communities to meet with witnesses and victims before the court session, accompanied by paralegals. Their visit could be announced ahead of time to the parajudicial workers, the members of the justice committees, and police officers. This kind of preparation is essential to the proper operation of the court in the communities visited.

I have mentioned the exhaustion affecting all players in the court system. Currently, in Amos, there are not enough prosecutors. It has always been hard to recruit prosecutors to fill positions in Amos. The work of the Itinerant Court requires a large number of prosecutors who, in addition to travelling, must also live in an outlying region. Young prosecutors come from the major urban centres and end up separated from their families. Most prosecutors come

from outside the Abitibi region (there are currently only two prosecutors originally from the Abitibi working the Amos office). The pool of potential candidates is small, and the positions are not seen as attractive.

In addition, there is no geographical link between the Abitibi region and Nunavik. The main Inuit organizations are located in Montréal, where there is also a large Inuit community (of 1,700 people in 2019 according to Makivik Corporation). In addition, the only air link between Nunavik and the Abitibi region is the Air Creebec connection from Kuujjuarapik.

My next recommendation will probably upset some people, but I believe it is relevant and advantageous, as well as essential for service quality.

Given that few court sessions take place in Amos;

Given that only bail hearings take place in Amos, that the defence lawyers attend virtually (the accused being either in the North or in the Amos detention facility), and that only the court itself is present, with one clerk;

Given that it is not necessary for prosecutors to be physically present at certain stages in the court process;

#### I recommend:

## **22 THAT THE DCPP OFFICE FOR THE NORTH, SERVING INUIT COMMUNITIES, BE MOVED TO MONTRÉAL.**

This would have a beneficial effect on recruitment. I have talked to many prosecutors who have worked in Nunavik, and they all state that in addition to the immense workload, the requirement of living in Amos, far from friends and family, eventually broke their resolve.

Many of these people would come back to work for the office for the North if it was in Montréal. This would create a larger pool of candidates for the DCPP, including prosecutors with extensive experience of working in Nunavik who could rotate at the Kuujjuaq office. Experienced prosecutors are, generally, more likely to use the tools for non-judicial treatment or referrals to justice committees. They authorize fewer counts per charge sheet, and have the confidence needed to make decisions about the need to prosecute. I know that this change would raise new challenges, but I believe that we must face the facts. If nothing new is attempted, nothing will change.

Two or three of these prosecutors would be based in the office in Kuujjuaq.

Opening a DCPP office and a legal aid office in Hudson Bay has been discussed for a long time, but is apparently still only a project. In my view, this could be a valid option. The inhabitants of Hudson Bay must be offered better services, since they constitute a large part of the Nunavik population (7,193 out of 13,115 people according to the 2016 census). In other words, over half of the Nunavik population does not have access to adequate court services.

Establishing a DCPP office and a legal office in Hudson Bay would raise the quality of the services for the population. In the meantime, or if the decision to open an office is not made, there are daily flights between Kuujjuaq and Puvirnituq.

The DCPP has been reduced to requesting assistance from other centres to compensate for the lack of staff and the inexperience of its prosecutors. Older prosecutors are asked to come to help prosecutors with less experience. These are good ideas, and at least the DCPP is showing a willingness to improve the quality of the services provided.

The problems of the office for the North are not new. The DCPP has had recruitment and retention problems for many years. However, it is obstinately pursuing the same route instead of making a courageous decision that would ensure the continuation of services in Nunavik.

In my vision, prosecutors could share responsibility for communities, on a "fly-in, fly-out" basis every two or three weeks. Each team could share the solitude of long weeks spent in the North. The team would be used to working together and could provide higher-quality work and the continuity demanded by Inuit workers in the socio-judicial system and by Inuit facing the justice system. The probation service and police service have chosen the "fly-in, fly-out" option for their own organizations.

This would deal with one of the concerns raised by the Chief Prosecutor for the Nord-du-Québec region when the decision to close the office in Kuujjuaq was under consideration. The debate focused on the fact that a large majority of defence lawyers were based in metropolitan Montreal and that discussions always took place by telephone, and also on the possibility of using new technology to facilitate the process. It is important to add that the pandemic has increased the use of new technology.

In Kuujjuaq, the DCPP office is still available and the DCPP still rents two houses with two bedrooms each from the SQI.

With respect to security for prosecutors, which is often raised as a reason for closing the office in Kuujjuaq and for various directives issued to prosecutors working in the office for the North (not going out in the dark, for example), the presence of two or three prosecutors at the same time would reduce this assumed risk. It would be necessary to purchase a vehicle, as other groups working in the court system have done.

Prosecutors would be in a better position to fulfill their duty to meet with victims and create links with Sapumijiit agents. In my experience, cooperation with Sapumijiit is most effective when the prosecutor is in the community.

Prosecutors working from the Amos office could continue to look after the Abitibi region and the Crees of Eeyou Istchee James Bay, for whom travel to the Abitibi region comes more naturally.

Obviously, special conditions would have to be negotiated for this new team. The process could begin with the upcoming renewal of the working agreement between the Director of Criminal and Penal Prosecutions and the Association des Procureurs aux poursuites criminelles et pénales.

**I recommend:**

**23 THAT THE DCPP OFFICE IN KUUJJUAQ BE REOPENED AND STAFFED BY PERMANENT PROSECUTORS.**

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## LEGAL AID

The legal aid division is a key player in the justice system. Legal aid lawyers, besides representing clients in court, are responsible for assigning legal aid mandates to lawyers in private practice.

This dual task takes a lot of time and energy. Monday afternoons are extremely stressful for these lawyers. They must meet with their clients to prepare proceedings, and also meet with private clients to complete legal aid applications.

Because I did this job for a long time, I know how demanding and sometimes frustrating it is. While the permanent legal aid lawyer is busy with legal aid applications, other lawyers are busy soliciting his or her clients. And the legal aid lawyer, dealing with legal aid applications, is not available to help non-represented clients arriving at the courthouse. This has all happened to me!

If lawyers are present in the week preceding the court session, they can meet with offenders who want to obtain a legal aid mandate. Lawyers in private practice would be responsible for sending a list of people to be met and for ensuring, with help from parajudicial workers, that their clients are present at the appointment to determine their eligibility for legal aid.

I have noticed, recently, that legal aid lawyers are present several days ahead of the court sessions. I commend their work and their dedication. I can also testify to the effort made by management at the Centre communautaire juridique de l'Abitibi-Témiscamingue (CCJAT) to improve the services provided for the Nunavimmiut. The number of lawyers made available for the North has increased significantly. A new program exists to ensure that a lawyer is available at all times, and for all clients, to conduct bail hearings. A so-called "Chinese" wall has been established to reduce possible conflicts of interest.

It would be useful if the legal aid lawyers, when present in the North, held mobile legal clinics to give advice in all sectors of the law. Although the lawyers could not intervene directly, they could refer people to organizations able to respond to their needs.

I also believe it would be advisable for the legal aid office, like the DCPP office and for the same reasons, to reopen permanently in Kuujjuaq. This would have the same effect and the same advantages for case preparation as for the DCPP if the legal aid lawyers had a permanent presence in the North.

During the years 2017 to 2021, the legal aid division issued a large number of mandates in the criminal law field. The statistics from the MJQ, as well as those I received from the CCJAT, reveal the percentage of cases conducted via legal aid mandates by permanent legal aid lawyers and lawyers in private practice.

The statistics are included in an appendix, but I can summarize them here.

MJQ data: Number of criminal case files opened:		
	UNGAVA	HUDSON
2016–2017	1,223	2,081
2017–2018	1,274	1,539
2018–2019	1,214	1,862
2019–2020	1,183	1,730
2020–2021	1,027	1,581

Legal aid data, legal aid mandates in criminal cases, for the same period:		
	UNGAVA	HUDSON
2017	1,173	1,863
2018	1,417	1,789
2019	1,137	1,728
2020	869	1,406
2021	830	1,481

Even if the reference years are not the same, it is possible to conclude that almost 95% of court cases involve a legal aid mandate. In Ungava Bay, the percentage declined during 2020. Is this an anomaly or a trend? We will know once all the 2021 data has been compiled. How can it be explained? Did the income of offenders increase to such an extent that they were no longer eligible?

I can suggest another possible explanation, although there is nothing scientific about it. The percentage did not vary much in Hudson Bay.

During my investigation, I met a lot of people who all told me the same thing. They claimed that some lawyers in private practice encourage clients to pay for their services by arguing that they will get a better defence if they pay for it.

Université Laval has published statistics on the cost of living in Nunavik. In addition to rent, all other consumer index items are more expensive in Nunavik. The study concludes that the cost of living is 28.7% higher than in the South. Apart from housing, everything costs more in Nunavik and food and housing take up 63% of household income compared to 41.3% in the Québec City area. For low-income families, the percentage rises to 70.5%. This is just some of the data. More details can be found in the survey results (*Le coût de la vie au Nunavik 2016 UL*).

The legal aid eligibility thresholds are increased by 20% in the North, but this is still embarrassingly unfair, especially since the Inuit are taxpayers like all other Quebecers.

To receive legal aid, beneficiaries must provide data on their income and property. So far, so good.

The difficulty comes from the fact some Inuit report that they work, even if this is only part-time or on-call work. For the sake of appearances, they say that they are working, which can make it seem that they are ineligible for legal aid. In addition, some work in construction as labourers, and in their case, it is extremely hard to track down documents from employers in the South—if they even exist. Although it is easier to ask large organizations to provide the necessary documents, lawyers in private practice must expend a great deal of energy to obtain proof of income.

All these steps slow down the process for obtaining a mandate. Often, cases are postponed while eligibility is verified. The upcoming report of the independent taskforce on reforming the legal aid tariff structure, chaired by Judge Corte, will include a section on Indigenous communities. Perhaps there are ways to reduce the delays.

I know that the Commission des services juridiques is working on a new process for issuing mandates and that some information is forwarded by email.

In Nunavut, the administrative coordinator for legal aid, Jonathan Ellsworth, told me that approximately 95% of cases involve a legal aid mandate.

My conclusion is the same, based on what I have observed from the data.

I had an opportunity to discuss the situation with the president and vice-president of the Commission des services juridiques and some of their staff members.

I stated that legal aid applications should be easier to fill out. I also explored the possibility of making all Nunavimmiut eligible for legal aid.

**I recommend:**

**24 THAT THE LEGAL AID OFFICE IN KUJJUAQ BE RE-OPENED TO ENSURE THAT  
LEGAL AID LAWYERS ARE PRESENT AT ALL TIMES.**

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**25 THAT LEGAL AID BE PROVIDED FOR ALL INUIT, REGARDLESS OF INCOME.**

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**26 THAT A SCHEDULE BE ESTABLISHED FOR MOBILE LEGAL AID CLINICS  
PROVIDED BY LEGAL AID LAWYERS.**

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This may seem unfair for people in the South, but the particular situation of the Nunavimmiut must be taken into account.

The measure must include visible publicity in courthouses and the places where the court sits in communities, radio announcements in Nunavik, and training for parajudicial workers about the new criteria. In this way, offenders could be informed and obtain high-quality services from professionals, without having to bankrupt themselves.



## DEFENCE LAWYERS (IN PRIVATE PRACTICE)

Criticism of lawyers is nothing new, but unfortunately it is something that is still a concern.

During my meetings, a lot of the people I interviewed complained about the work of certain lawyers.

They mentioned fees that were too high, a lack of preparation, a lack of communication with clients, postponed cases and a lack of information about legal aid. I was told, more than once, that some lawyers stated that a client who paid for his or her lawyer would get better representation, even if the client was otherwise eligible for legal aid.

This all has to be taken with a grain of salt, of course, but the accumulation of comments suggests that some of the complaints were probably true.

Lawyers who demand \$500 for each attendance in court, postponements that ensure the lawyer gets paid even if the case does not advance, and hasty meetings to prepare cases are all things that were reported to me.

One young woman told me, with proof, that she had paid \$7,750 to her lawyer in 2018 for a charge of driving while impaired, with a promise that she would be acquitted. The case was still active as I was writing this report, and the young woman had to give all the money she had saved to meet her child's needs.

Four things need to be addressed here. The amount charged would be high for anybody, and even more so for someone living in Nunavik. The amount is justified neither by the lawyer's experience nor by the difficulty of the matter (s. 102 of the *Code of Professional Conduct of Lawyers*). The failure to provide information about eligibility for legal aid contravenes s. 34 of the same Code (the young woman was on maternity leave at the time). The time elapsed since the start of the case is excessive, but the promise of an acquittal had a major impact on the client's decision. Last, the client had to travel to Kuujjuaq under the threat of no longer being represented by the lawyer. Even then, the case was postponed again.

Is this just anecdotal evidence?

Possibly!

It is true that this is a specific case, but too many similar events were reported to me, by individual citizens and court staff, for this to be a unique occurrence. When the first question a client is asked is how much money he or she has, there is a problem.

This probably hinders the operations of the court and the way the Inuit perceive the system.

The work of a defence lawyer is hard—I did the job for long enough to know this. Of course, I was working for the legal aid division and did not have to deal with the monetary aspects.

Unsuitable rooms for meetings with clients, distance, difficulties with communications and case preparation, and language are all obstacles to the work of defence lawyers. They are often unable to contact their clients or the prosecutor. They cannot be blamed for all the lack of preparation.

It would be unfair to say that they are responsible for all the problems, but it would be fair to say that they contribute to the problem of delay and the negative perception of the role played by lawyers in the administration of justice. They are responsible for most of the postponements and the delays they cause. In general, they are responsible for choosing the cases that will proceed, often with no regard for the time elapsed since the start of the case and the delays that will ensue.

Better preparation necessarily requires more presence in Nunavik. Arriving the week prior to the court session should be encouraged, and even made mandatory.

The Nunavik Regional Police Service has established an air bridge to enable the Inuit to fly to Amos for bail hearings, in recent months and following incessant demands from the Court of Québec, and since August 2021, there have been two shuttle flights. In addition to speeding up the process, this reduces the number of searches conducted on inmates transitioning through Montréal and Saint-Jérôme.

This is an excellent initiative and it could be made even more effective if the defence lawyers were ready. The number of days that elapses between the arrest and the bail hearing remains high. The detention conditions in police stations are not ideal, and are sometimes inhumane.

A report by the Public Protector describes detention conditions in Nunavik as "inhumane": [https://protecteurducitoyen.qc.ca/sites/default/files/pdf/rapports\\_speciaux/2016-02-18\\_conditions-de-detention-Nunavik.pdf](https://protecteurducitoyen.qc.ca/sites/default/files/pdf/rapports_speciaux/2016-02-18_conditions-de-detention-Nunavik.pdf)

I met with the deputy chief of the Nunavik Regional Police Service. He stated that he was quite discouraged by lawyers' slowness and lack of preparation. Some offenders remain in custody for 7, 8 or even 10 days after a telephone or video call appearance. Given this situation, he insists that lawyers be ready to hold the hearing within a reasonable time, failing which he has to send offenders to the South because of the lack of cooperation from defence lawyers.

The presence of a legal aid lawyer could remedy this situation if the lawyers in private practice agreed, but the loss of income for them could have a negative impact.

The lawyers who criticize excessive delays are, most of the time, responsible for them.

I would like to turn to another topic. It may appear surprising, but I will attempt to explain it to the best of my ability.

On several occasions I have had to conduct trials where no defence is presented, in other words, trials in which only the complainant testifies. I know that, often, clients think that the victim will not come to testify. The percentage of cases that end with a guilty plea on the first day of the trial is 10%. Is this the same as the number of "show me your witness" cases? This approach takes advantage of the fact that the Inuit do not like to speak against others, even in the case of an abuser.

Although it is true that it is hard to get a domestic violence victim to testify, it is not impossible. A lot of time has elapsed since the complaint, and everyone has continued to live their lives. The notions of respect and responsibility are strongly anchored in Inuit culture, and the work of the prosecutors and Sapumijiit agents has begun to bear fruit.

The fact that, in most cases, offenders state that they have no memory, or only a partial memory, of what happened possibly explains why they do not testify. They blame their situation on their alcohol consumption. In most cases, however, this does not constitute a defence. Faced with documentary evidence and photographs, it is surprising that they want to take the issue to trial, unless the goal is to put pressure on the complainant by victimizing him or her again.

It is good to report that a prosecutor facing a female complainant who refuses to testify, after meeting with the Sapumijiit agent and the prosecutor, will then close the file.

I remember the case of Roger, who was charged with assault in a context of domestic violence. I met with the complainant, who stated that she wanted to testify about what she had experienced. Roger was in custody, and the events were relatively recent. The day of the trial arrived, and Roger maintained his plea of not guilty. I questioned the complainant in direct examination. The defence lawyer asked questions about her drinking and her memory of the events. She was sober and remembered all the details. I closed the evidence for the prosecution.

The defence lawyer consulted with his client, who decided to testify against the advice of his lawyer, who noted this fact with the court. The lawyer should have withdrawn from the case, since he was aware of his client's version and was complicit in the pressure placed on the complainant.

I was able to cross-examine him, after the defence asked no questions.

First, I asked Roger what had happened. He related, in all details, the same version as the victim, therefore admitting to the offences he was charged of.

At this point he addressed me directly, saying that I had forced the victim to testify. The judge did not intervene and the conversation between me and the accused continued. A scene like this could not have taken place anywhere else. An accused person addressing the prosecutor directly is generally considered to be prohibited behaviour.

However, Judge Chevalier knew me well and knew that I am not easily intimidated. I had known Roger for a long time, and I explained my approach while talking to him about respect and responsibility, the fact that I had nothing against him personally and was not judging him, and above all that I never forced people to testify.

The judge handed down a prison sentence. I requested a short sentence despite his previous record, which could have justified a longer sentence.

When he got out of prison, Roger came out of his house when he saw me walk by one time on my way home. He told me he was back and that everything was going well, and he thanked me for treating him with respect.

We saw each other several times after that and always had pleasant conversations.

We spent an hour and a half on a case that could have been dealt with in one third of the time.

This anecdote illustrates the advantage of getting to know people, but also highlights the deficient work of the defence lawyer. I understand that this is the mandate that the lawyer was probably given, but the lawyer's behaviour leaves a sour taste.

If the lawyer had acted in the best interest of the client, none of this would have happened.

Last summer, just after my mandate was confirmed, I met with a defence lawyer who had worked in Kuujjuaq. She told me that 95% of her clients wanted to plead guilty. Was this always for the right reasons? For example, was wanting everything to be over as quickly as possible a factor?

Although it was her duty to study the evidence and advise her client, her mandate was clear. If there is no defence, the defence has to negotiate. However, prosecutors and defence lawyers must be open to the idea.

Some authors criticize section 11 of the *Canadian Charter of Rights and Freedoms*, which creates the right to silence at all stages of judicial proceedings, with no exceptions.

The principles of fundamental justice and the rights of the accused have been examined by the Supreme Court. The report Inuit Women and the Nunavut Justice System reviewed the cases concerned as follows:

In the most recent of the three cases, the *R. v. L.* case, Madame Justice McLaughlin explains that when looking at this constitutional issue before the court, it has to be looked at in context. She says that it is necessary to look at the broader political, social and historical context to be truly meaningful. The context in which Judge McLaughlin looks at the section 7 and 11(d) rights of the accused is the context of child sexual abuse in Canadian society. She reminds us the same Court agreed that a particular right or freedom may have a different value depending on the context. She acknowledges the parallel between the historical discrediting of children and women who report sexual assaults. She goes on to state that:

«The innate power imbalance between the numerous young women and girls who are victims of sexual abuse at the hands of almost exclusively male perpetrators cannot be underestimated when 'truth' is being sought before a male-defined criminal justice system.»

The rights of the accused should then be assessed in terms of the context of the specific case. It seems this balancing of rights exercise done by the Supreme Court has not been adequately reflected in Section 717(2). (pp. 85:16-17)

In this same case, Madame Justice L'Hereux-Dubé informs us that:

«The goal of the court process is truth seeking and to that end, the evidence of all those involved in judicial proceedings must be given in a way that is most favourable to eliciting truth. ...If the criminal justice system is to effectively perform its role in deterring and punishing child sexual abuse, it is vital that the law provide a workable, decent and dignified means for the victim to tell her story to the court.»

The silence of one party is contrary to Inuit culture, because they only have one version of the facts. They never hear the version of the accused. In their view, the story is not complete. It is hard to make an enlightened decision without knowing what actually happened.

The Inuit, when accused of a crime, often want to give their version of the situation. Police officers take statements provided the accused has a clear memory of the events. In court, when they are examined, they rarely lie and often admit the facts of the case. This is why defence lawyers tell their clients not to testify, but it prevents the Inuit community from finding out the truth.

The European justice system does not protect the right to silence with as much force. On the contrary, the accused's version of the facts is essential to the debate.

Québec civil law provides for prior questioning during which the defendant is heard.

Judges in the United States draw a negative inference from an accused who remains silent.

The Barreau du Québec has observed the following:

The accused's right to silence has an unwelcome side effect in jury trials, since in Indigenous culture all the parties to a dispute must give their version of the facts. It may also have a disastrous impact on the victims who testify and on families when the accused receives a prison sentence. (Brief submitted by the Barreau du Québec, "Le système de justice et les peuples autochtones du Québec : Des réformes urgentes et nécessaires" (2018) [Translation]).

I am not pleading for the abolition of this fundamental right. I simply wish to highlight one of the differences between our justice system and the more traditional justice system that a majority of Nunavimmiut would like to see implemented. The intervention of a properly informed justice committee would give both parties a chance to speak, to attempt to find the truth and begin a mediation process.

**I recommend:**

**27 THAT LAWYERS PRACTISING IN NUNAVIK RECEIVE SPECIAL MANDATORY TRAINING ON DISPUTE RESOLUTION MODES AND INUIT CUSTOMS.**

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**28 THAT LAWYERS ACT MORE DILIGENTLY TO PARTICIPATE IN BAIL HEARINGS.**

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## COURT SERVICES

The ministère de la Justice (MJQ) is clearly one of the leading players in the Itinerant Court system. It must make an effort to introduce initiatives that increase its effectiveness. To do this, it must first understand the issues.

I am well aware of the effort made by the MJQ, in terms of both judicial services and the establishment of permanent policies concerning various aspects of its duties. I have seen the tireless work performed by MJQ employees but also, at times, a lack of awareness of the actual needs of people in the Far North.

It appears, all too often, that it is hard to get such a large organization to change course. I believe that a lack of perspective prevents innovation. It would be better for the court to be organized in a way that places the priority on citizens rather than on the organization itself.

Judicial services are an important element in the work of the Itinerant Court. Court clerks, organizers, rooms and interpreters are all essential to the smooth operation of the Itinerant Court.

The lack of interpreters, and the accuracy of the interpretation they provide, is still a problem. As recently as last April, there were no interpreters available for a hearing before the court. This should not happen. In addition, lawyers have no access to interpreters when they are needed for the court's week of hearings. The risk of a difference between the version heard in the lawyers' offices and the version presented in court can lead to disputes.

It is important to ensure that interpreters are available for defence lawyers and prosecutors during court weeks. I have often been reminded that the role of Sapumijiit agents and parajudicial workers does not include acting as interpreters.

Court offices are under water, and clerks are gasping for breath but fearing the next wave as they drown beneath an accumulation of problems. Court transcripts are rarely available quickly (delaying payments to lawyers with a legal aid mandate), entries in the record are delayed, and the dockets are drawn up at the last minute.

The problems are known, but there are no clear solutions.

Like other organizations working in Nunavik, court offices find it hard to recruit and retain employees.

The end result is overwork and delays in the production of minutes and entries in the court record. This has an impact on lawyers who are waiting to be paid by the legal aid division. It creates major difficulties for the DCPP and police services when the court record does not provide all the necessary updated information concerning the criminal record or pending cases of an accused.

Requests for Gladue reports are not always submitted, delaying sentencing.

I place no blame on the people working tirelessly in the court office for the North.

It is increasingly clear that there is a lack of staff, that too many people are away on sick leave, and that people are leaving their jobs because of the difficulties created by the excessive workload.

The court office in Kuujjuaq has been closed for quite some time, after years of calling for more assistance for the people working there. The last person working there left to move to another organization, also in the North. Clearly the North itself was not the problem—rather, it was the working conditions, the salary scale and the lack of support. One clerk asked for the help of a second clerk in Kuujjuaq for months—repeatedly, but to no avail. The court office in Kuujjuaq currently has one employee, but she works only during the weeks when the court is present.

Organizations steal staff from each other, exacerbating the problem. The Conseil du trésor and government departments should offer similar conditions of employment for workers going to the North, regardless of their actual employer.

Working for the Itinerant Court is exacting, and differs from anything that can be seen elsewhere. It would, of course, be a good idea to improve the working conditions for court clerks. How can the court office for the North compete with other public services (SQ, DCPP, LA, NRBHSS, KRG, MAKIVIK) and the mining industry, in the Abitibi region, to retain staff in the court office for the North? Why are these workers not entitled to the same benefits as most people working in the North? Prosecutors get an 8% bonus for working in the Abitibi region and a 5% bonus

for working with the Itinerant Court. Why should anyone have to sacrifice their family life because they have to travel to the North on a regular basis, without adequate compensation?

It probably appears that writing about these aspects is not part of my mandate. I do not agree—the court staff play a key role and contribute to the effectiveness of the system as a whole.

The construction of a more suitable courthouse should be considered for Kuujjuaq. The current facilities are obsolete and do not meet the minimum requirements for court sittings. There are seven chairs in the waiting room, and movement is difficult because of people lined up in the corridor leading to the courtroom. The courtroom is too small for citizens to attend. Sapumijiit has premises that are not big enough to receive victims, who often end up face-to-face with their aggressor. One was was unable to hold back and wet herself because she was afraid to leave, given that her aggressor was in a nearby corridor. There are not enough offices for defence lawyers. The heating system is about to expire, and there is no suitable ventilation or air conditioning.

Some of the recommendations set out in this report will require the investment of money and resources to administer justice properly with regard to the needs of the Inuit and in terms of logistics (offices and housing for lawyers and prosecutors, extra premises, improvements to and the construction of justice centres and courthouses). On the other hand, most of the solutions proposed here are cost-neutral. What must change is the approach.

**I recommend:**

**29 THAT A NEW, MORE SUITABLE COURTHOUSE BE BUILT IN KUUJJUAQ.**

**30 THAT THE PERMANENT COURT OFFICE BE RE-OPENED IN KUUJJUAQ.**

**31 THAT INTERPRETERS BE HIRED TO WORK WITH ALL PARTIES.**



## MAKIVIK CORPORATION

Makivik Corporation is, and must be, the principal player in renewing the way justice is administered in Nunavik.

The *Act respecting the Makivik Corporation* summarizes, in section 5, the corporation's mandate:

5. The objects of the Corporation are:
  - (a) to receive, administer, use and invest the part, intended for the Inuit, of the compensation provided for in subsections 25.1 and 25.2 of the Agreement and the revenues therefrom, as well as all its other funds, in accordance with this Act;
  - (b) to relieve poverty and to promote the welfare and the advancement of education of the Inuit;
  - (c) to develop and improve the Inuit communities and to improve their means of action;
  - (d) to exercise the functions vested in it by other acts or the Agreement;
  - (e) to foster, promote, protect and assist in preserving the Inuit way of life, values and traditions.

Makivik's interventions in the justice sector have been extremely random over the years.

In 1991, a study, commissioned by Makivik, summarized the authors' meetings with the Nunavimmiut, and a series of recommendations was made.

What stage have we reached today?

It appears that Makivik is willing to direct its energies to improving the legal system in the North and to targeting initiatives to make the justice system more in harmony with and less foreign to Inuit culture.

Makivik's Justice Department has, for example, expanded greatly in recent years and has made a substantial effort to find ways to take back ownership of the justice system. I met with the department several times and I know that the best is still to come. Its vision and energy are more than a match for the issues it faces. Makivik is supporting a number of initiatives, indicating that it will take the lead in the future.

This is clearly a good way to achieve more governmental autonomy, and even full autonomy. It also reflects paragraph e of the mandate.

However, my experience with Makivik leads me to doubt whether this dedication will last. The Makivik executive and council would have to make a commitment, over 10 or 15 years, to make justice a priority and one of their core focuses. This is the only way to build an effective partnership between players in the court system and the Nunavimmiut.

The Inuit leaders must show an interest in participating in the administration of justice. They must publicly encourage the members of the various communities to become involved in the programs set up by political organizations. I believe that a good way to gain their support is to say that this constitutes a step towards greater political autonomy for the Inuit.

### I recommend:

**32 THAT MAKIVIK CORPORATION PASS AN IRREVOCABLE RESOLUTION TO MAKE THE JUSTICE SYSTEM A PRIORITY OVER THE NEXT 15 YEARS.**

**33 THAT MAKIVIK CORPORATION AND LOCAL LEADERS ENCOURAGE THE TAKING BACK OF POWER OVER THE LEGAL SYSTEM.**

Until now the government has attempted, with varying degrees of success, to incorporate the Inuit into the system rather than to incorporate the system into Inuit life. There have been consultations, but it appears that the Inuit were more spectators than actual participants. This led the community to lose interest and withdraw. If the Inuit had been made to feel more welcome in the system, who knows where we would be today.

Let us leave the past in the past, and look instead at what we can and must do today to support Inuit involvement and re-establish trust in the justice system.

Makivik Corporation has a clear interest in investing in justice, in both prevention and the operation of the Itinerant Court.

Justice committees, parajudicial workers and interpreters must be **valued** by local leaders. The hiring of Gladue report writers and better pay for justice committee members would also be appropriate.

Even if justice committees already existed in 1984 in Puvirnituq (Jaccoud and Coutu report), the current structures were established in 2001. There are justice committees in most communities, but they are of varying effectiveness. This makes it difficult for the DCPP to hand cases over to them.

It appears to be difficult to hire Inuit individuals with an interest in this type of work.

I met with several committees (in Aupaluk, Kangirsuk, Kangiqsujuaq, Salluit, Inukjuak and Kuujjuarapik) during my trips to the North for this investigation. When I wrote this report, there was no coordinator in Puvirnituq or in Kuujjuaq. This is a pity, since these are two large communities and their contribution could have a significant impact on the services provided by the Itinerant Court.

During these meetings, I noted that several members of the committees had only a vague idea about what they could do to have an actual impact. There appears to be no clear plan for the clients referred to them. I should add that there is absolutely no doubt when it comes to their dedication or the quality of their actions. Meetings with clients referred by the court, initiatives to renew contact with Inuit culture and to compensate for the harm inflicted, and awareness of the factors leading to involvement with the justice system are all steps to success.

I know that Makivik's Justice Department is working on the "empowerment" of various socio-judicial players.

In my view, the committees should play a broader role. They should be more present in the daily lives of the Inuit, and should be able to intervene before the court comes to the community. Police officers and the DCPP appear to be reticent, and the Inuit themselves appear to have limited their actions. The justice committees should work to serve the community, rather than follow instructions from the Itinerant Court.

As soon as a person has been arrested, the police should notify the local committee so that it can take responsibility for the case immediately, whether or not charges have been laid. This would come closer to the traditional way of resolving disputes and restoring harmony. The committee members could begin to work right away with the offender and his or her family members.

I can see the situation clearly: the police receive a call from a female complainant about domestic violence. The complainant explains what has happened, but either does not want to file an official complaint with the police or is too intoxicated to make a statement. The police officers observe that the complainant has marks on her body that suggest that a violent event has occurred.

The police officers, having reasonable grounds to believe that an offence has taken place, act according to the protocol. Temporary detention is necessary to protect both the complainant and the general public.

If the police officers notified the justice committee at this point, as suggested in the Coutu Report, it could take charge of the couple's case, with their consent, to explore ways to ensure that the same kind of violence does not occur again. In my example, there would be no charges, because there is no evidence, even though it is probable that a crime was committed. If there is no response to the event, it is likely to happen again.

I faced this kind of situation so often as a prosecutor that it became unbearable. The number of complaints filed as "no further action" was discouraging, not necessarily because of the number of cases before the court, but because of the lack of alternatives to a court case and the lack of support provided for the people involved. The fact that no alternative can be offered because of a lack of resources is a major problem.

I understand why victims do not wish to file a complaint. They are under a lot of pressure. The perpetrator is the only one with a job, she needs him to bring up their children, the perpetrator's family is treating her with contempt he might go to prison, and she is living (as is often the case) with his family. At this point the pressure becomes unbearable and is added to the fear of falling victim to other men in the community who will know if her partner leaves the village.

A scenario like this is unfortunately common in Nunavik. If you find it exaggerated, you need to hear more testimony from Inuit women who have been in this kind of situation. This will give you a clearer idea of the kind of pressure they undergo.

If the couple had been able to receive assistance from the justice committee, measures could have been put in place to protect the complainant and allow the perpetrator to make amends. This is a long-term project, but we must keep hope.

As time goes on, awareness of the justice committee would grow among community members and various stakeholders. The committee would be able to intervene directly in less serious cases (theft, misdemeanour, breaking and entering a business, negligent use of a firearm, breach of conditions, etc.) following a referral by the police.

I know that a lot of energy is expended on training the members of the committees. But more is needed!

Makivik could make agreements with colleges and universities to organize a program for Inuit workers in the socio-judicial system to give them the tools they need for dispute resolution, active listening and the creation of intervention plans for their clients. I know that the UQAT is working on a course, in English and French, that could be taken virtually or in-person to make committee members more autonomous.

The justice committees must be able to review offences and discuss rehabilitation with their clients. They must be able to help families facing problems that lead to action from the Director of Youth Protection.

They could write Gladue letters to inform the court of certain specific aspects of an offender's case. A Gladue letter is shorter than a report, but can have a positive impact on the way in which the court understands how an action is triggered. I know that justice committee members have an opportunity to do this.

I have put justice committees in the spotlight because I believe that this is the best way to ensure the inclusion of the Nunavimmiut in a system to regulate offending behaviour, in a way that resembles the ancestral approaches to dispute resolution.

I am repeating myself, but a strong, well-balanced justice committee would support the drive-by prosecutors to divert cases and would reduce the number of cases before the court significantly. Currently, there is no agreement among prosecutors—some refer cases frequently to a justice committee, while others never do. Protocols could be signed and could cover an increasing number of offences eligible for transfer to a justice committee. Prosecutors could be given directives to increase the number of cases transferred. The DCPP could, to establish a better cultural rapport, suggest that communities meet with prosecutors to make them more aware of the impact of certain measures on Inuit offenders.

Parajudicial workers are destined to play a crucial role in the operation of the Itinerant Court. However, they must receive more training on the justice system. Their work must be made attractive and rewarding to ensure that parajudicial workers are present in all communities.

It is important to understand that parajudicial workers are not interpreters. They have no specific training in translation, although they must master the language and the concepts used in court.

Parajudicial workers meet with offenders, explain the procedure for court sessions and the steps in the judicial process, and liaise with the defence lawyers and the resource persons working with the offender. They could also act as resource persons to announce and report to the court on what is happening in the community (deaths, special events, etc.), and report the absence of an accused person while explaining the reasons.

I have met with people in this role, and they say that they are keen to take on more responsibility for assisting the court. This still means that the organization would have to rely on them more and that they would need to have a

seat at the front of the courtroom to intervene with judges, lawyers and prosecutors when asked for information, and also be more visible to the community, which often doesn't know they exist.

They could report to the court at the beginning of each session to avoid wasting time at the calling of the docket.

For example, they could report that an accused has hearing problems, speaks only Inuktitut or has to remain seated because of health problems, or that an individual is present in court but that his or her case has not been called (following an unconfirmed promise to appear). The Inuit are shy and do not want to request anything so as not to disturb.

Makivik is a corporation with substantial financial means thanks to its holdings in various profitable businesses. It would be appropriate for some of its own money to be invested in the justice system. The construction of justice centres to house all the organizations providing assistance for citizens facing the justice system would be a good place to start. Major federal infrastructure funding could be used for this purpose.

The justice committee, parajudicial workers, community reintegration officers, Saqijuk and Nitsiq representatives, social workers, local mobile intervention teams, representatives of Isuarsivik and caseworkers from Qajaq could all be present. Rooms for remote appearances and remote testimony, and for interviews with assistance centres in the South, could all be available. There could be a referral service, and offices for lawyers to meet with clients and prepare cases. Some social services, such as addiction counsellors, could also be present.

Legal clinics could also be held there to inform citizens about their rights, the operation of the court, the *Youth Criminal Justice Act* and all the programs available to prevent reoffending. An informed citizen is an involved citizen, and we need more of them!

I cannot emphasize enough the need for specific training in criminal law, the *Act respecting legal aid*, the *Youth Protection Act* and the *Youth Criminal Justice Act* for players in the socio-judicial system. Makivik is working on this aspect.

Working with the MJQ, KRG and the MSP, the MHB, the landholding corporations, the NRBHSS, the construction company Kautak and Makivik Corporation could consider building such centres by combining them with the projects proposed by other organizations.

Political leaders, both in Nunavik and in Québec City, could use these initiatives as a way to demonstrate the importance they place on justice and their willingness to play a role while drawing inspiration from traditional models.

It would also be useful to set up a mentoring system to help new justice committee members and parajudicial workers gain a better understanding of the system and how to navigate it. Their mentors could be experienced prosecutors and defence lawyers, as well as retired judges. Similarly, players in the socio-judicial system could consult the same mentors when facing apparently insurmountable difficulties.

#### **I recommend:**

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**34 THAT LEGAL CLINICS FINANCED BY THE MJQ BE ESTABLISHED QUICKLY, IN COLLABORATION WITH INUIT ORGANIZATIONS.**

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**35 THAT TRAINING BE IMPROVED FOR INUIT PLAYERS IN THE SOCIO-JUDICIAL SYSTEM (MEDIATION, DISPUTE RESOLUTION, CRIMINAL AND FAMILY LAW, NON-SUGGESTIVE SOCIAL SUPPORT, ACTIVE LISTENING, ETC.).**

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**36 THAT JUSTICE CENTRES BE BUILT OR PLANNED AS PART OF EXISTING BUILDINGS.**

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## KATIVIK REGIONAL GOVERNMENT

The Kativik Regional Government (KRG) plays an important role in the life of the Nunavimmiut. It has extensive responsibilities (transportation and airfields, income security, employment and training, sports and recreation, national parks, etc.) and the support it provides for municipalities is crucial.

In the field of justice, the KRG is responsible for community reintegration officers and Sapumijiit agents, who act as prosecutors in cases involving municipal by-laws. The KRG also sees to the upkeep of courthouses and police stations and, in the past, was responsible for justices of the peace.

It appears that there is little cooperation between the KRG and Makivik. It is not my place to interfere in the political life of Nunavik, but more cooperation would lead to greater synergy when needed in the justice system.

The KRG participates in the wellbeing of the communities in another way. Vocational training programs are established and financed by the KRG. This kind of training opens a path to the labour market and has a clear impact on the prevalence of crime.

I met with KRG officers during my trip to Kuujjuaq, and they raised the usual issues (excessive delays, cost of lawyers' services, etc.) concerning the administration of justice in Nunavik. It appeared to me, however, that they feel no urge to get more involved in the search for solutions. This is a pity! They could make an essential contribution, continuing the efforts made by the KRG over the years to become a major player in the administration of justice.

I submitted this idea at my meetings with the KRG authorities.

### I recommend:

**37 THAT THE INUIT ORGANIZATIONS (KRG, MAKIVIK, THE NRBHSS) WORK MORE CLOSELY WITH EACH OTHER IN THE FIELD OF JUSTICE IN NUNAVIK.**

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**38 THAT THE KRG BY INVOLVED IN BUILDING SUITABLE INFRASTRUCTURES IN KUUJJUAQ AND OTHER COMMUNITIES.**

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## REGIONAL COURT

From 1995, following the Coutu Report, and until 2004 there were justices of the peace in Nunavik. I knew two: Sandy Gordon in Kuujjuaq and Michael Cameron in Salluit.

I had the privilege of appearing before them and I met with them while preparing this report.

Sandy told me how important this work had been, in his own eyes and in the eyes of the Nunavimmiut. He was a stakeholder in the lives of his fellow citizens and knew that his work was appreciated and respected by the Inuit. Being judged by an Inuk judge, even in a system set up by white people, gave the process more importance. It had a greater effect, and the decisions were more respected.

Michael, in turn, expressed the same feeling of pride and the same acceptance of his decisions by the Salluimuit. He was guided by the Honourable Judge Bissonnette and sat alongside him on some occasions. They would discuss what had happened in court, assessing the testimony, the evidence submitted, and the decisions made with respect to the verdict and, if applicable, the sentence.

Both men regret the fact that this period, which seemed to foretell a justice system more in tune with Inuit values, is now in the past.

Sandy wonders why the approach was dropped. I answered that some decisions by the higher courts had raised concerns about the independence of the judges. Not because of their actions, but because of their contractual situation, which meant that they could be removed.

The program was suspended—clearly a missed opportunity.

Ontario, the Northwest Territories, Yukon, Alberta and, elsewhere in the world, like Greenland, all have justices of the peace who hear cases, preside at bail hearings and sentence offenders. Their powers and the criteria for their appointment vary, but the objective remains the same. It has to be said, though, that courts run by justices of the peace are less common now than when the courts were established.

The criteria for appointment include probity and respectability. The justices of the peace receive training on law and procedure, but they are not lawyers. Their legal training is provided on an ongoing basis to ensure that it remains up to date.

A report was published by a working group in 2008. The group was established at the request of the Chief Judge of the Court of Québec, the Honourable Guy Gagnon, and chaired by the Honourable Maurice Galarneau, and included judges, prosecutors and representatives of the MJQ and the department responsible for Indigenous affairs. The report called for greater cooperation between Indigenous and non-Indigenous people.

The group identified certain recurrent problems with the Itinerant Court and the organization of the justice system in Indigenous communities. Although some of their recommendations have been applied, others, of equal importance, have been ignored.

The report reiterated some of the recommendations from the Coutu Report. In my opinion, Recommendation 8 is of key importance:

The ministère de la Justice should immediately adopt a program for the appointment of justices of the peace in Aboriginal communities based on the contents of our committee's working document relative to their appointment, number, qualifications and supervision, this latter function being the responsibility of the Chief Judge of the Court of Québec.

Recommendation 45 is also relevant to my proposal to make the justice system more accessible:

As soon as possible, a regional court should be established in Nunavik, to be called the Court of Nunavik and to be presided over by a judge of the Court of Québec or by one or more judges appointed under the *Act respecting municipal courts*, but having the same powers as a judge of the Court of Québec. The judge or judges should supervise and coordinate the work of the justices of the peace, preferably Inuit, who would be appointed in all Inuit communities in Québec.

These recommendations were not made yesterday.

It is hard to understand the resistance to the introduction of new approaches, but it seems to me that this hesitation can be traced back to a lack of enthusiasm, open-mindedness, perspective, and knowledge of the realities on the ground on the part of the elected officials involved.

The advantage of a court with justices of the peace is that the court would be made up of Inuit judges working for Inuit. The judges would know their fellow Inuit well and would be able to assess the specific difficulties faced by each individual. They would be more familiar with the traditional concepts of justice among the Inuit. They could work with the members of the justice committees and would be in a better position to suggest reparatory sentences in keeping with the concept of restorative justice. They could adapt parts of the procedure, since they would be masters in their own courts.

For the government, this would be a way to recognize a form of legal pluralism that already exists. It has to recognize that other legal realities exist.

A former federal Crown prosecutor, Pierre Rousseau, who practised in Québec, Nunavut and the Northwest Territories, made this point before the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec (the Commission d'enquête sur les relations entre les autochtones et certains services publics, referred to here as the CERP).

The Minister would have to introduce a legislative amendment (s. 162 of the *Courts of Justice Act* and Schedules 4 and 5) to enable this kind of appointment. It would be feasible with a minimum of political will.

The CERP and Makivik have completed an interesting study on justices of the peace which could form the basis for future work.

It is important to remember that the *United Nations Declaration on the Rights of Indigenous Peoples* recognizes the right of Indigenous peoples to their own juridical system. The Government of Canada endorsed the Declaration and its principles when it passed the United Nations Declaration on the Rights of Indigenous Peoples Act on June 21, 2021. It is not my place to get involved in political decisions and this is not part of my mandate. However, I believe that there is a link with the spirit of the mandate's third component.

Article 34 of the Declaration reads as follows:

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

The recognition of a legal authority based on Indigenous tradition would be a major step towards reconciliation and towards community responsibility for the justice system.

The goal is not to create a two-tier system, but to adapt the existing system to include Inuit values. As Lisa Qiluqqi Koperqualuk points out in *Traditions Relating to Customary Law in Nunavik*, ancestral methods must be integrated with modern methods to eliminate the delays and accumulations of cases that characterize the court system.

Reducing delays would be an advantage. If justices of the peace hear cases relating to offences under Part XXVII of the *Criminal Code*, including bail hearings, the Court of Québec could hear cases relating to more serious cases, where the information relates to a criminal offence, and deal with motions.

This solution has advantages but also some drawbacks. For example, who would act for the prosecution, and who would act for the defence?

I have thought a lot about the idea of reintroducing justices of the peace, and have read several articles on the subject. Although I find the idea attractive, I realize that implementing it would take too much time. I believe it should remain a goal, and that a structure of this kind, or another model based on it, should be considered in the future. However, my mandate concerns solutions that can be made in the short term. This is why I would like to submit the following idea.

Perhaps we should consider a municipal-style court, presided over by a judge appointed under the *Act respecting municipal courts*, and requiring the presence of two Inuit assessors. The assessors would listen to testimony, ask

questions, participate in the determination of guilt and be consulted on sentencing. The court could work alongside the justice committee, which would suggest and then monitor sentences.

There is no doubt that several Nunavimmiut could become justices of the peace or assessors. Many have the ability, the intelligence, the honesty and the authority needed to perform this challenging task. I am convinced that justice rendered by a fellow Nunavummiuq would have a positive impact on the administration of justice in Nunavik.

This would be one way to include the Inuit in the justice system.

To achieve this goal, municipalities and the KRG would have to be involved. It would be in their interest to set up a municipal court, which could hear offences under municipal by-laws and Part XXVII of the *Criminal Code*. The costs would be paid by the government, but the amount of the fines could be paid to the communities.

Based on the statistics for 2019-2020, 2,917 case files were opened for 6,182 charges involving 1,356 single offenders. When the data on the alleged offences is analyzed, it is clear, in my experience, that many cases are settled summarily. The number of cases that could be heard by a regional court would be sufficient to reduce the pressure on the Court of Québec and prove its usefulness.

Of course, the process would have to proceed step by step to avoid simply transferring the problems to this new court. As practices improve, we could extend the scope of the court's jurisdiction and eventually, for example, cover youth protection cases.

**I recommend:**

**39 THAT THE MINISTER OF JUSTICE, WORKING WITH THE LOCAL AUTHORITIES,  
ESTABLISH A REGIONAL COURT IN NUNAVIK TO HEAR CASES INVOLVING  
MUNICIPAL BY-LAWS OR UNDER PART XVII OF THE CRIMINAL CODE.**

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## THE BARREAU DU QUÉBEC

An important part of the mission of the Barreau du Québec is to protect citizens by defining rules of conduct and providing training for lawyers.

A mission was organized in 2012, leading to a report in 2014 on the conditions of practice for lawyers working at the Itinerant Court.

It is clear that we are still a long way from the point where Barreau will begin to be more interested in the delivery of services by its members at the Itinerant Court.

One of the observations made concerns the lack of specific training for practice in Nunavik. A 3-hour session is available for Bar School candidates, but this is not enough, and the session does not deal specifically with Inuit communities.

The Northwest Territories require one week of training for lawyers who wish to practise there. The training is given by community members, and the lawyers are brought into contact with the realities faced by people in the Territories. Traditional approaches to managing conflict, intergenerational trauma, lifestyles in the past and present, land and everything that contributes to the nations' specificity, are all covered.

Article 20.0.12 of the James Bay and Northern Quebec Agreement requires non-Inuit court staff to be cognizant with the usages, customs and psychology of the Inuit people.

Organizations should do more in this area to ensure that lawyers are aware of where they are going and the people they will be in contact with. The DCPP testified at the CERP that training was provided and that it was mandatory for prosecutors. I was a prosecutor in Nunavik and I can state without hesitation that the training was insufficient. It did nothing to familiarize us with the community, learn about customs, or find out more about the Inuit and their past and present lifestyles. It contained nothing but prejudice and platitudes.

All of this knowledge is needed to better understand the issues that are specific to the Nunavimmiut and to direct our actions. The training sessions should be given *in situ*, sometimes in Inuit families if they are willing to receive outside guests. This is the kind of perspective we need to work more effectively with caseworkers, accused persons and victims, and perform our own work in harmony with Inuit realities.

This is the kind of knowledge acquired over the years by workers who have come to Nunavik from the South that can guide their actions and make them more acceptable to the Nunavimmiut.

The Barreau should conduct information campaigns to ensure that the Inuit are aware of their recourses when they feel that their rights have been infringed or when they are dissatisfied with the services provided by lawyers. They must be informed about the existence of the syndic as part of the Barreau organization.

I have read the Barreau report and action plan, released in 2018 and submitted to the CERP. My hope is that the recommendations in the plan will be implemented as soon as possible (see the report in the appendix).

### I recommend:

- 40 THAT THE BARREAU, WORKING WITH INUIT ORGANIZATIONS, UNIVERSITIES, L'ÉCOLE DU BARREAU AND THE MJQ, ESTABLISH MANDATORY TRAINING FOR LAWYERS WHO WANT TO PRACTISE IN NUNAVIK.**
- 41 THAT THE BARREAU SEND A MISSION TO NUNAVIK TO FIND OUT MORE ABOUT THE COMPLAINTS FILED BY INUIT INDIVIDUALS CONCERNING THE DELIVERY OF SERVICES BY LAWYERS.**

- 42 THAT THE BARREAU BE MORE VIGILANT CONCERNING THE BILLING OF FEES BY LAWYERS IN PRIVATE PRACTICE.**
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- 43 THAT THE BARREAU IMPLEMENT INFORMATION CAMPAIGNS, IN THREE LANGUAGES (FRENCH, ENGLISH AND INUKTITUT), CONCERNING THE RIGHTS OF OFFENDERS REPRESENTED BY A LAWYER.**
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## JUDGES

I have had opportunities for discussions with many judges, including two Associate Chief Judges, the Coordinating Judge for the Abitibi-Témiscamingue-Eeyou Istchee-Nunavut district, and the former Coordinating Judge for the same district. Our discussions were frank and several possible solutions were outlined, including testimony via video call, the calling of the docket and prior case management. I understand that despite its initial reluctance, the Court of Québec now manages the docket for its Youth Division.

I was able to understand a little more about concern on the part of judges with respect to the preparation, often chaotic, of lawyers and other players in the court process.

I also saw the great respect the judges have for Inuit caseworkers on justice committees and parajudicial workers. Over the years, I have witnessed the humanity of some judges when dealing with the problems of the Nunavimmiut.

I am well aware that, without the cooperation of the judges, it will be difficult to move forward with some of the recommendations in my report.

I understand the concept of judicial independence and I know that it is not possible to ask for all my recommendations to be applied by all judges. However, more openness would benefit the administration of justice.

There can be no doubt that the system must be modernized. The Chief Justice of the Supreme Court of Canada stated this in a meeting with the media. The use of communications technologies should be more widespread during court hearings. Nunavik covers an immense area, and there are no roads between the communities. Travel (as mentioned at the beginning of this report) is expensive and victims and witnesses make many pointless trips.

I know that the court uses some of the means available and is willing to do more at this level. This is good. Unfortunately, I have also heard about a judge who refused to hear a youth protection motion because the defendant could not leave her home—she had been infected by the COVID virus. Everything was done by telephone and there were difficulties. In the end, the case had to be postponed and the family situation remained unchanged. The same judge then stated that he would no longer conduct telephone hearings, whatever the circumstances.

I will not go back over the recommendations that will require active participation by the judges who travel to Nunavik.

However, I feel I must call on judges to be more open-minded. The ways of the South cannot be imposed, unilaterally, in the courthouses of the North. The North cannot be a mirror image of the South.

Articles 20.0.6 and 20.0.7 of the *James Bay and Northern Quebec Agreement* allow judges to adjust procedures to respond more effectively to the specific situations that apply in Nunavik. I know that some accommodations have been introduced over the years, but I also believe that more can be done in this area.

It has been mentioned to me, by lawyers, that they would like to be more involved in drawing up the court docket. I know that it is not the role of the court to submit to the wishes of lawyers, and that lawyers must make themselves available when the court is sitting. But I also know that the pool of lawyers practising in the North is restricted, as is their availability, and that their opinion should at least be part of the equation.

How many times have I had to insist to make sure that I could give judges and organizers my opinion when decisions were made about travel problems caused by the weather when travelling to other communities.

During my meetings, most of the women I met complained about the sentences handed down to repeat offenders for sexual assault and domestic violence offences, which they considered too lenient. They felt that the court did not take such crimes seriously. The same observation was made during the National Inquiry into Missing and Murdered Indigenous Women and Girls. Violence in Indigenous communities is, even today, trivialized. The statistics cited by the Inquiry are frightening.

I remember one case in which I helped determine a sentence. I met with the victim and asked if she wanted to speak during sentencing. She answered that she had already testified during the preliminary inquiry and trial, and that each time she felt a feeling of shame after being cross-examined (it is important to add that the accused presented no defence). I asked if she wanted me to speak on her behalf, and she agreed. I then asked if she had support from the community, and she said that her group of friends, comprising around a dozen women of the

same age, helped a lot by talking about their personal experiences. When I asked how many of them had been the victims of sexual assault, she said they all had. ALL of them!

I would like to cite, here, the part of the report from the National Inquiry into Missing and Murdered Indigenous Women and Girls that specifically concerns Québec:

It is clear that Indigenous women in Québec do not have the same opportunities as non-Indigenous women to fulfill their potential and realize their dreams. Many of them have had their childhoods stolen and have been traumatized repeatedly throughout their lives.

According to the Commissioners, Québec must establish "a system for justice that protects Indigenous women, girls, and 2SLGBTQQIA people from violence" because "the Québec justice system fails in this task."

I have often observed that judges rely a lot on the CAVAC document that details the impact of an assault on the victim. However, in the same way as for the accused, we need to admit that the specific situation of Inuit women needs to be covered by judicial notice. The courts have often stated that in the absence of a Gladue report, the court has judicial notice of the systemic problems affecting Indigenous communities, without the accused having to prove anything. The same reasoning could apply to women who are victims of sexual violence or repeated domestic violence. They live in the same communities, and they face the same systemic problems. In addition, they are the victims of a crime.

I do not wish to interfere, here, in the powers of judges, nor am I pleading as a prosecutor. I am simply reporting what I was told by the women I spoke to. It is clear to them that longer sentences would have a greater deterrent effect. Imposing lighter sentences is not a way to reduce the number of Inuit individuals in prison. The *Gladue* and *Ipeelee* decisions emphasize that the more serious the offence, the less the sentence should vary from the sentence imposed in the South.

Court decorum is not appreciated by the citizens of Nunavik. In addition to the fact that the judge is not seated at the same level as the other participants, the wearing of a gown is seen as intimidating. In the 1980s and 1990s, the requirement of wearing a gown was removed, to give justice a more human aspect. Gowns are a painful reminder of the priests and missionaries who also dressed in black. In addition, the use of a person's last name is not customary in Nunavik, where people identify each other by their first names. The last name is something that was imposed on the Inuit by federal civil servants. Because of this, it is not insulting to be addressed by one's first name. Some judges do this, but they are in a minority.

Less formality would not necessarily lead to anarchy in court. It would only make the exercise more human and closer to Inuit culture, in which everyone speaks as an equal. The Court of Québec should assess the possibility of using an adapted image of what is required by conventional justice during hearings in Inuit territory.

I recommend:

- 44 THAT JUDGES LOOK AT NEW WAYS TO ORGANIZE THE HEARING OF THE ITINERANT COURT (REMOTE TESTIMONY, VIRTUAL HEARINGS, TRAVEL TO COMMUNITIES).**

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- 45 THAT JUDGES BE ENCOURAGED TO USE APPROACHES THAT INVOLVE LESS DISTURBANCE FOR WITNESSES AND VICTIMS, INCLUDING TESTIMONY BY VIDEO CALL.**

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- 46 THAT JUDGES ALLOW MORE LATITUDE FOR PARTICIPANTS IN ITINERANT COURT HEARINGS.**

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- 47 THAT WAYS BE FOUND TO REDUCE THE FORMALITY OF COURT HEARINGS AND ADAPT THEM TO INDIGENOUS REALITIES, IN BOTH CRIMINAL AND YOUTH PROTECTION CASES.**

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## YOUTH PROTECTION

### Background

If any topic deserves scrutiny, it is the field of youth protection. I cannot even begin to provide a full discussion of this issue, which is at the heart of Inuit concerns. I will examine mainly the judicial aspects, and what the Inuit themselves say about the operation of the court.

I invite readers to study the CERP report and the reports produced by the Commission des droits de la personne et des droits de la jeunesse (CDPDJ). The situation is well known and the problems have been identified many times. I will focus here on the procedure for court sittings, and the roles played by lawyers and other players in the system.

For many years, the Inuit have accused youth protection workers of being child snatchers. This can be explained by the long-lasting and painful memories of the "scooping" of children over several decades, which has been handed down from generation to generation. This feeling has been described and explained in many different studies and reports. I will address it briefly, but it is real and still present in the Inuit psyche.

This perception among the Inuit is not without foundation when we consider the lack of improvement in recent years. The conditions in which children are housed in rehabilitation centres in South are close to those in residential schools. Children are sometimes prevented from speaking their own language, and have minimal access to resources from their community, in their language. The cutting of social ties is added to their torment.

There is a blatant lack of information concerning the application of the *Youth Protection Act*. I have often been asked by parents whether they would go to prison once the court had rendered its judgment. This reflects how little the principles of the Act are understood.

The desperate lack of housing is a key factor in the large number of placements and problem situations. It would be unthinkable to return a child to his or her home when the abuser (an uncle, cousin, or older brother) still lives in the same house or when the children are exposed to violence, often itself caused by overcrowded housing.

Reliance on grandparents or the extended family can be a solution provided they agree to help and can offer a healthier living environment than the one from which the child is removed.

There are two Directors of Youth Protection in Nunavik, one in Kujjuaq and one in Puvirnituq. The number of files opened on each shore is astonishing, as shown in the tables below based on data from the NRBHSS.

Table 4: Child reports filed

Year	Reports filed, Nunavik		Reports filed, Québec	
	Number	% of the child population	Number	% of the child population
2017-2018	2 659	52	96 014	6
2018-2019	2 195	42	105 644	7
2019-2020	2 180	41	118 316	7
2020-2021	2 092	40		

Table 5: Child reports accepted

Year	Reports accepted, Nunavik			Reports accepted, Québec		
	Number	% acceptance	% of the child population	Number	% acceptance	% of the child population
2017-2018	1 320	49.6	25.7	39 945	40.6	2.5
2018-2019	1 146	52.2	22.1	41 530	39.3	2.6
2019-2020	1 184	53.4	22.3	43 549	36.8	2.7
2020-2021	1 052	50.2	19.6			

Year	Alternative living environments for children whose situation is taken in charge by Youth Protection <sup>1</sup>								
	Number of children	% of the child population		% of children in RC/GH <sup>2</sup>		% of children in FF <sup>3</sup>		% total of children in an alternative living environment	
		Nunavik	Québec	Nunavik	Québec	Nunavik	Québec	Nunavik	Québec
2017-2018	852	16.63	1.51	7.8	10	47.9	38.6	55.8	48.6
2018-2019	883	17.01	1.53	8.3	9.2	48.6	38.7	56.9	47.9
2019-2020	905	17.09	1.84	9.2	9.2	56.5	37.9	65.7	47.1
2020-2021	1 030	17.45				57.2		67.7	

1 Source: Nunavik Regional Board of Health and Social Services (this is the number of children on 31 March of each fiscal year).

2 RC/GH: rehabilitation centre/group home. The percentage represents the total number of children placed in these alternative living environments compared to the total number of children taken into custody by Youth Protection.

3 FF: foster family. The percentage represents the total number of children placed in foster families compared to the total number of children taken into custody by Youth Protection.

4 For Québec, this includes children placed with a person who is significant for them. The percentage is calculated using the same parameters as mentioned previously.

New cases taken in charge			2018-2019			2019-2020			2020-2021		
Problem	IHC	UTHC	Total	IHC	UTHC	Total	IHC	UTHC	Total	IHC	UTHC
Abandonment	1		1	1	1	2	4	2	6		
Neglect	56	6	62	85	21	106	62	28	90		
Serious risk of neglect	9	50	59	27	40	67	27	38	65		
Psychological ill-treatment	20	28	48	30	11	41	20	7	27		
Physical abuse	30	10	40	32	4	36	24	10	34		
Risk of physical abuse	17	9	26	24	3	27	10	4	14		
Sexual abuse	5	1	6	10	3	13	3	4	7		
Serious risk of sexual abuse	10	2	12	7	3	10	3	4	7		
Serious behavioural disturbance	10	3	13	7	9	16	14	4	18		
Assessment under way after taking in charge	8	0	8	3	0	3	0	1	1		
<b>Grand Total</b>	<b>166</b>	<b>109</b>	<b>275</b>	<b>226</b>	<b>95</b>	<b>321</b>	<b>167</b>	<b>102</b>	<b>269</b>		

The result is that almost one out of every 5 children in Nunavik is under the responsibility of Youth Protection!



## COURT PROCEDURE

This over-reliance on the court system places families and caseworkers under a lot of pressure. Resources are so limited that the Inuit no longer receive the necessary assistance. The NRBHSS is well aware of the problems and describes the situation in detail in its action plan for the coming years.

The Court of Québec is closely involved in the search for ways to avoid wasting court time and to ensure that people are better prepared. Various initiatives, including a procedure handbook for court hearings and the filing of documents, have been introduced and have met with success to varying degrees. The court has complained that reports are not always submitted on time.

A lack of pre-hearing preparation among lawyers is also a feature of youth protection. During my discussions with prosecution lawyers and the Court of Québec, the problem was raised many times. I made comments and shared some possible solutions.

One solution would be to call the docket before each court week to ascertain the position of the parties. Knowing each party's position ahead of time to determine the type of hearing needed and the facts that will be admitted would make it easier to estimate the time needed for the hearing. Currently, the lawyers acting on behalf of Youth Protection request one hour per case because this is what the court has indicated. It is an illusion to think that this is the time needed without knowing what the issues are.

It appears that this type of calling of the docket has already been considered by some judges, but the practice is not widespread. Over the last two or three court sessions, at the time of writing, the approach has been authorized by the court and the results are encouraging.

Unfortunately, this is not enough!

### I recommend:

## **48 THAT THE CALLING OF THE DOCKET IN THE WEEKS LEADING UP TO EACH COURT SESSION BE CONTINUED FOR YOUTH PROTECTION CASES.**

All too often, Youth Protection lawyers will prioritize cases based on the availability of their witnesses, rather than proceeding with the most urgent cases based on the best interests of the child.

The court must deal with the late arrival, and even the absence, of social workers at the hearing. This is unacceptable and Youth Protection must provide better coordination.

There are not enough court sessions to deal with the number of cases involved. The delays are catastrophic. In April, it was impossible to find a date before the sessions of the next court schedule, which runs from August 2022 to July 2023, to hear cases on the merits (s. 38, *Youth Protection Act*). Because of this, the court mainly proceeds by way of provisional motions under section 76.1 of the Act to avoid missing the deadlines provided by law. The rest of the docket is filled out with applications for review under section 95 of the Act.

Except in a few cases, hearings are held in Kuujjuaq or Puvirnituq. To limit the need for people to travel, their presence is required only to hear the grounds for accepting a report concerning sexual or physical abuse, and for placements of people of full age. All other cases are heard via videoconferencing.

The demographic reality in Hudson Bay is different from that in Ungava Bay, in the sense that there are several larger communities rather than just one (Kuujjuaq). It could be appropriate to hold court sessions in the larger communities such as Inukjuak and Salluit. This would be cost neutral given that the families would no longer have to travel to court.

In addition, when hearings are held by videoconferencing, the families are seated in the Youth Protection office. This is uncomfortable for them because, rightly or wrongly, they are afraid of upsetting the caseworkers.

**I recommend:**

**49 THAT THE POSSIBILITY OF HOLDING YOUTH PROTECTION SESSIONS IN VARIOUS COMMUNITIES IN HUDSON BAY BE EXAMINED.**

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**50 THAT THE MJQ, WORKING WITH THE INUIT ORGANIZATIONS RESPONSIBLE, DRAW UP AN IMPLEMENTATION PLAN TO ACCELERATE THE DEPLOYMENT OF VIRTUAL HEARING ROOMS IN PLACES OTHER THAN YOUTH PROTECTION OFFICES.**

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Because of the deadlines in the Act, the court must intervene several times in the same case when a child must be placed outside his or her family (60-day deadline). This leads to a flurry of what is known as "76.1 administratives." In other words, placements are extended without a proper hearing on the content of the application.

Although it is true that there are too many cases, it is also true to say that since most applications are granted, there is no point in hesitating any longer. Action is needed.

It is no longer possible to believe that intervention by the court alone will right all wrongs. The Youth Protection lawyers should be able to discuss the situation with social workers to see if there is another way to protect the rights of children and families. It appears that some Youth Protection lawyers find it difficult to discuss and present the applicable measures to social workers.

It is important to note that Youth Protection has chosen to use a private law firm to represent it. This occurs nowhere else, except in Cree communities. It is hard to explain, given the number of court cases involved. I am not questioning the competence of the lawyers involved, but it seems reasonable to believe that things would be different if Youth Protection set up its own legal department. Currently, the lawyer-client relationship makes conducting the case more difficult, because the lawyers are bound by their mandate with the client. A legal department within the organization itself could intervene more with Youth Protection caseworkers.

**I recommend:**

**51 THAT YOUTH PROTECTION LAWYERS BE PRESENT IN NUNAVIK AT ALL TIMES, LIKE THE LAWYERS ACTING IN CRIMINAL CASES, ON A ROTATING SCHEDULE.**

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We also need to stop throwing blame around. As I stated at the beginning of this report, the supply of staff is not inexhaustible. There are not enough social workers, lawyers, clerks or judges.

I attended several court hearings before writing this report, and I can say that I was flabbergasted to see the lawyers' lack of preparation, as well as their flagrant ignorance of the community and the resources it makes available and accessible. I was shocked by the politicization of the debates. Judges have powers delegated to them by the legislation in force, and the debates should go no further than this.

I believe it is appropriate to specify that a better understanding of the scope of each mandate would come in useful. The lawyers are not there to advance a cause, but to work in the best interest of their clients while complying with the law and its constraints. They should find another forum to air their ideas.

The same applies in cases requiring consent, for which the parties are required to be present in court (end of voluntary measures or end of the last judicial measure for which the parties agree on the recommendation). Despite everything, this often results in long hearings, even if nothing is contested. The time wasted is no longer available for contested cases.

I saw one lawyer claim to have a clear mandate from her client, who was not present, after speaking to her the previous day. The client was absent because she was at home waiting for the notice stating that the case would

proceed. Another lawyer, after a while, intervened to say that it was in fact her that had the mandate, and this was confirmed by the client.

This is unacceptable! A more disciplined approach is needed. The Barreau should impose training to compensate for some lawyers' lack of experience. We are seeing this in Hudson Bay, following the arrival of a new law firm with little awareness of northern realities.

Debates can be fruitless when their goal is to ask for the federal government's Bill C-92 to be applied, even though the law itself is valid.

**I recommend:**

**52 THAT ALL PLAYERS IN THE COURT SYSTEM RESTRICT THEIR ACTIONS TO THEIR MANDATE AND THEIR POWERS UNDER EXISTING LEGISLATION IN ORDER TO LIMIT DEBATE IN COURT, WHETHER FOR APPLICATIONS MADE BY THE DIRECTOR OF YOUTH PROTECTION, THE QUESTIONS AND PLEADINGS OF LAWYERS IN THE COURTROOM, OR JUDGES' QUESTIONS AND DECISIONS, BY OBSERVING THE LIST OF MEASURES THAT MAY BE ORDERED UNDER SECTION 91 OF THE YOUTH PROTECTION ACT.**

**53 THAT A MECHANISM TO REIMBURSE THE TRAVEL EXPENSES OF DEFENCE LAWYERS IN PRIVATE PRACTICE BE CONSIDERED.**

Unfortunately, the lack of any Inuit foster families for long-term placements requires the use of families in the South, and Youth Protection relies on them increasingly. The situation is untenable. It results in a loss of points of reference, the decline of Inuit culture, and the uprooting of children placed in foster families outside Nunavik. Families in the South may say that they are concerned by these issues, but the children still become acculturated, with repercussions that are sometimes dramatic. How are these teenagers, caught between two cultures, expected to react when they reach the age of 18 and Youth Protection no longer has responsibility for them? The loss of connection with their initial culture is practically irreparable. The teenagers have no sense of belonging to a culture whose language and customs they have forgotten, making their return to the North difficult and even impossible. Will they go to swell the ranks of the uprooted Indigenous people wandering the streets of Montréal?

I know some young adults who have returned to Nunavik after spending most of their lives in the South. Given their almost nonexistent relationship with their birth family, it is hard to rebuild a bond. They are often seen as strangers, despite their Inuit origin. This is a tragedy!

Are we experiencing a rerun of the residential school episode?

The need for advanced training on the customs of the Nunavimmiut is necessary and even essential. Once again, the Inuit, who have trouble understanding the system, cannot recognize and therefore fall prey to bad practice.

We are all responsible for this untenable situation. We all have a role to play, whether to reduce the number of cases or to focus the debate on what is essential.

I remember well, the time when judges were quite happy to send social workers back to square one by telling them that their intervention had to take place under the Act respecting health services and social services. In fact, many of the situations brought before the court could easily have been dealt with upstream by adequate social services. I often hear social workers say that a case should go to social services, while social services say it is a case for Youth Protection. They bounce responsibility between them, and all the while the situation is getting worse and social workers end up taking the court route.

The cases are piling up and the court is straining to deal with all the needs.

Some judges allow the court to keep sitting late into the evening. This situation is unacceptable in the South, and should be in the North. Waiting at the courthouse or at home for hours at a time until the case is called generates extra stress that is clearly not needed by the families.

**I recommend:**

**54 THAT SPECIFIC TRAINING ON INUIT FAMILY TRADITIONS AND DYNAMICS BE PROVIDED AND MADE MANDATORY FOR LAWYERS WORKING IN NUNAVIK IN THE FIELD OF YOUTH PROTECTION.**

**55 THAT THE NUMBER OF COURT WEEKS DEDICATED TO YOUTH PROTECTION CASES BE INCREASED.**

It is not my intention here to blame field workers, who give their hearts and souls to the job, for the current situation. I have seen them struggle too many times not to recognize their unfailing devotion. All too often they feel powerless or incompetent after the parties have questioned them. Sometimes, it is as though they are made to feel responsible for everything that is wrong with the system. This can make them leave their jobs, creating a vacuum given the already low retention rate for Youth Protection caseworkers.

They too suffer from the lack of qualified staff ready to come to work in the North, despite the advantageous conditions—good wages, large bonuses and 16 weeks of vacation.

The lack of Youth Protection staff is distressing. Social workers are overwhelmed and unable to provide the services required in each situation. This is why they rarely visit families and follow up on measures randomly, and why they rarely, and sometimes never, meet with the children involved.

It appears that all they are able to do is respond to emergencies—of which there are a lot.

How can a problem be remedied within the family if no follow-up takes place until it is time to go to court? How can people be expected to meet the demands of the court if they get no support from the very people who launched the proceedings to take charge of the child? How can parents be supported when they are seen only once every 6 months, if that? Social workers must be relieved of other duties to provide regular support, at least once a month, to families and children. Children placed with foster families are almost never contacted by social workers to find out if the measure provides a suitable response to their needs.

I remember that too many families complained that there was no suitable follow-up, but that they were also criticized for not taking the corrective action demanded.

The social workers themselves are unable to respond to the court's demands. The lack of specialized resources in the North means that their energy is dispersed in many different directions. Making appointments in the South, ensuring that the family understands the importance of the process and is willing to participate, and organizing travel and accommodation for the family all takes time, and explains why no follow-up is provided.

I have often stated that Youth Protection does not have the means to achieve its ambitions. Services were ordered but were not provided to families. Even if I have not appeared in court in a youth protection case in 12 years, the problems are still the same.

Another task is to organize trips to attend court. Locating a family, organizing travel, finding accommodation, and ensuring attendance in court takes time and energy that is not devoted to helping and supporting families.

In addition, the same social workers are regularly and severely criticized in court by both judges and lawyers. People who know they have given their all can easily become discouraged.

It is also unacceptable that the Youth Protection worker called as a witness is not the worker on the case, who is often absent, generally on vacation. How can this person, with a fragmented understanding of the situation, answer legitimate questions from the lawyers and from the court? How can he or she testify about the efforts made by

the family, about discussions with the parents and about the solutions proposed? The only effect is to lengthen the hearing and therefore to delay the court.

This situation, however unacceptable, occurs at every court session. It has been repeatedly denounced, but apparently the message has not yet been received.

The NRBHSS must absolutely find ways to offer the services to which families are entitled and respond conscientiously to the needs of the court.

### I recommend:

## **56 THAT SOCIAL WORKER VACATION DATES AND COURT DATES BE COORDINATED MORE EFFECTIVELY.**

It is not normal for Youth Protection to have to request emergency assistance from private agencies for assessments because of a lack of staff. I know that the NRBHSS does not do this on purpose, but it creates a real danger because of a failure to understand the community.

Is it not possible to plan for all social workers to receive more training on Inuit family culture in order to identify problems and solutions more effectively?

Situations are often analyzed through the eyes of social workers in the South, who have only a vague idea of life in the North. Some situations that may appear shocking at first sight are often less dramatic when more is known about the culture. An empty fridge does not necessarily mean that the children have nothing to eat. The fact that children are outdoors late at night does not necessarily point to a lack of supervision. The NRBHSS needs to improve the cultural training provided for social workers to ensure that they can assess situations in light of Inuit family culture and dynamics.

The court and some social workers have addressed complaints to the Commission des droits de la personne et des droits de la jeunesse (CDPDJ) in recent years. Infringements of the law have become so frequent that they are now the rule. I have talked to the people involved, who say they pay little attention to CDPDJ interventions.

I would like to include in this report an excerpt (translated from the French version) from the NRBHSS action plan for the 4 coming years:

**Phase 1** will address the most pressing youth protection challenges, while planning for the structure, constitution of a legal body and funding of the NIP. This will include the development and implementation of training for all workers and organizational policies for all the new services under consideration. These new services will include family councils, wisdom councils, a pilot project for a single access point to record needs, and support services as part of a service continuum for young people and their families, to avoid interventions by youth protection in their lives. A coordinator has already been hired to implement family councils in Nunavik, and pilot projects are underway. The position of NIP director has been advertised, and will be filled shortly.

**Phase 2** will target the creation of improved and culturally-sector structures and services, based on prevention and community mobilization. Working committees will be set up at this stage to set guidelines and make recommendations. Ways to collaborate will also be examined, in particular with the network of family houses. The idea is to create a continuum of services to consolidate frontline, culturally secure promotion and prevention services, provided by Inuit workers inside and outside the health and social service network. The NIP will support the establishment of better working conditions for Inuit workers.

Based on a model of shared responsibility and support, with the main focus on children and families, the NIP is intended to transform services for young people and families compared to the way in which they were designed, provided and experienced before. While looking realistically at the challenges and the extent of the tasks involved in making this vision a reality, services will gradually be taken in charge by the NIP. A call for an agreement with the Québec government under section 37.5 of the Youth

Protection Act is being considered, as part of the vision under which the Inuit can take ownership of culturally and contextually appropriate services.

As part of the extensive consultations conducted by Sukait, the development of a special youth protection program under section 37.5 of the YPA has emerged as the key element in providing a better response to the needs of children and families in Nunavik. To work towards the application of section 37.5 of the YPA, a consensus has been reached to

- prioritize the development, consolidation and reinforcement of front-line services and community services;
- establish measures to increase capacity and make communities more autonomous;
- appoint a regional director for youth protection whose first task will be to ensure that the delivery of child protection services is culturally secure for the children concerned.

To ensure the cultural adaptation of child protection services, the RACYS recommended the use of section 37.5 of the YPA, which allows Indigenous communities to make adaptations by signing a specific agreement with the Québec government. This process has received the support of the 14 northern villages and all the regional organizations concerned.

The mandate for defining and implementing this service organization model for child protection services has been given to the NIP, while Sukait will play an advisory role and support the process. The next step will be to present the model to the MSSS and the Secrétariat aux Affaires Autochtones (SAA) to discuss its implementation.

I must congratulate the NRBHSS for bringing up the question, and responding to some deficiencies with a vision and approach to remedy the current situation as far as possible.

There are very few Inuit working as social workers in Nunavik. There used to be many more. Their knowledge of the families involved and of the problems specific to each of them was extremely useful.

The NRBHSS has signed agreements with educational institutions (colleges and universities) to establish social work programs specifically for the Inuit.

I invite readers to look at the documents appended here concerning the new program Nunavimmi Ilaqiqit Papautauvinga. This is an initiative that offers hope for the future. The new community-based approach to address the difficulties experienced by certain families has raised expectations in connection with the application of section 37.5 of the *Youth Protection Act*.

I had an opportunity to meet with the executive director of this new body and I left the meeting greatly encouraged.

Already, family councils have been established in several communities in Nunavik, and elders' councils will also be set up to provide support for families in need. The councils should work with the justice committees to avoid a silo mentality.

It is a good idea to create a single access point to record needs and offer support to help young people and their families avoid the intervention of Youth Protection in their lives. It is also a good idea to meet with young women at the start of their pregnancy to give them the tools they need to ensure the wellbeing of their future child.

It would also be appropriate for justice committees to intervene. They are made up of people from the community. Many of the cases brought before the court contain allegations that children have witnessed domestic violence. If the justice committee is already dealing with the criminal file, or if the file has been diverted to the justice committee, then monitoring can be facilitated and a more global solution can be found.

The services provided by parajudicial workers could be a great help. They could help families define a position on possible solutions by explaining the *Youth Protection Act*, and could act as a bridge between families and their lawyers. The Makivik Justice Department has set up a procedure that provides families with relevant information, which should be given to the parents during the judicial proceedings. The parajudicial workers should not, however, be expected to act as interpreters.

Given that many people, and especially young children, speak only Inuktitut, interpreters should be present in courthouse corridors during court sessions for youth protection cases.

**I recommend:**

**57 THAT PRIORITY BE GIVEN TO SUPPORT FOR AND THE DEVELOPMENT OF THE NUNAVIMMI ILAQIIT PAPAUTAUVINGA PROGRAM SO THAT IT CAN GROW AS QUICKLY AS POSSIBLE TO RESPOND TO THE NEEDS OF CHILDREN AND FAMILIES IN NUNAVIK IN A SUITABLE WAY.**

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**58 THAT PROCEEDINGS AND REPORTS BE TRANSLATED SYSTEMATICALLY INTO INUKTITUT.**

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**59 THAT THE PRESENCE OF AN INTERPRETER BE ASSURED OUTSIDE THE COURTROOM DURING COURT SESSIONS, AND THAT PREPARATORY MEETINGS BE ORGANIZED TO ALLOW LAWYERS TO SPEAK WITH THEIR CLIENTS.**

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There are many single-parent families in Nunavik. They have enormous needs that will be easier to meet. How many of these young parents were themselves, as children, monitored by Youth Protection?

The difficulties are so acute that a frightening number of children are under the protection of Youth Protection.

One old lady told me, one day, that the uprooting of children from Indigenous communities prevented mothers from being mothers and fathers from looking after their children. How can people pass on to their children what they themselves never learned how to do? In all families, wherever they come from, imitation is an essential way of learning and educating.

The problems only get worse when children reach the age of 18 and are left to themselves, without support or assistance and often without hope.

I represented Annie for several years. She was a child, then a teenager, then a young woman, living in an unsuitable environment, with no way of getting out. She developed behavioural difficulties and Youth Protection became involved in her life. This should have happened earlier, before the harm was done.

Over the years, I followed Annie's path through the courts. She used to come to see us at the office to show off the clothes she had sewn. Annie, my assistant and I used to chat. I always encouraged her to do her best to comply with the court orders. I can state that I was the only stable professional contact she had during these years.

I poured all my energy into representing her in court to ensure that her rights were upheld. The judges, who were used to our relationship, knew how much we meant to each other. She gave me the energy I needed to overcome the obstacles placed before her, and placed before us.

One day, when I was in Puvirnituk on court business, Judge Richard Laflamme came to see me in the kitchen of the hotel where I was preparing a shared meal. He asked me to follow him, and I did. He announced that Annie had been found dead underneath the balcony of his house. She had brought her ordeal to an end. She no longer had the strength to continue. She paid with her life for the misery of the world, her world.

If the Nunavimmi Ilaqit Papautauvinga program had existed at the time, I am certain that the situation would have been different. She would have received support from the community and from the program workers. She would have been taken in charge by others, in a way that respected Inuit culture. Here, the saying is true: it takes a whole village to raise a child.

#### **I recommend:**

## **60 THAT THE NRBHSS OFFER SUPPORT AND FOLLOW-UP FOR TEENAGERS UNTIL THE AGE OF 20.**

My mandate does not cover social problems, the insufficiency of clinical interventions by social workers, or the lack of resources needed to provide better support for families facing adversity I have only covered these aspects in passing. I would like to have been able to say more about the matter, because I have witnessed many situations in which the intervention of Youth Protection could have been avoided. When I practised in the Youth Protection field, entire court sessions were devoted to youth protection cases. On these days, when I went home, I needed to be with friends to avoid being overcome by grief.

I believe it is useful to end my comments by talking about a process launched by the Commission des droits de la personne et des droits de la jeunesse. I believe it is indicative of the failure to act, by certain people, to combat the distress experienced by families in Northern Québec. The letter was sent to Ministers McCann and Carmant.

Subject: Child and youth protection services in Nunavik

Dear Madam Minister,

Dear Minister,

The Commission des droits de la personne et des droits de la jeunesse wishes to inform you of its deep concerns regarding the child and youth protection services offered to children in Nunavik. In 2010, the Commission published a follow-up report on the implementation of its 2007 recommendations following its investigation of child and youth protection services in Nunavik. The Commission concluded in that report that, although all regional bodies had made significant efforts, the situation remained precarious and conveyed a sense of urgency.

In 2014, the Commission was informed of eight cases involving children in Ungava Bay, and alerted the Minister of Justice and the Minister of Health and Social Services regarding the protection of children in Nunavik. The Commission asked them to take urgent action in response to these persistent and recurrent situations of children in danger, due to their living conditions, the economic and social

conditions, the housing situation, the poor organization of health and social services and the precarious situation of the safety net available to children, which is practically non-existent.

The Commission then organized 16 meetings involving 23 stakeholders from the political, administrative, clinical, health and social services, education and justice sectors, as well as community members. Noting that the problems experienced by children and youth should not be reduced to youth protection, the Commission decided to visit Kuujjuaq in September 2016 to open a dialogue with the communities.

Several key findings emerged from this dialogue between the Commission and local leaders. Proposals of a series of actions were developed to address the various issues related to housing, education, drug abuse, protection and the justice system. These actions are part of an action plan adopted by the authorities of the ministère de la Santé et des Services sociaux and local communities. The Commission regularly invites those responsible for implementation of the action plan to monitor its progress.

In March 2018, the Commission presented these findings to the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress.

Unfortunately, the Commission's presentation expressed once more the recurrence of the same problems and findings in its investigations.

[...]

#### Final considerations

My investigation has highlighted a series of actions and omissions by the relevant authorities, along with institutional practices, that have led to the exclusion of young Inuit housed in rehabilitation centres in the regular education system and have denied their right to education and the full development of their human and cultural potential (CDPDJ).

To provide one example, after numerous investigations, reports, follow-ups and court decisions, the Commission once again wrote to the ministère de la Santé et des Services sociaux in March 2019 to highlight the infringement of the right of children in Nunavik to receive health and social services. One year later, a response had yet to be received.

To conclude this section, I can only say that the challenge is enormous and that it will take several years to set up an effective system that reflects the family values of the Nunavimmiut. A new approach is needed to ensure the safety of the children of Nunavik.

# CONCLUSION

As this report clearly shows, the administration of justice is a long way from meeting the expectations of the Inuit. I believe that the situation must be analyzed with perspective. In addition to the unwillingness of some people to consider improvements to the current system, the lack of understanding of the Inuit community acts as a brake to many initiatives.

Obviously, the organizations involved, even in the Inuit community, have sometimes lacked the courage and impetus they need to change the system. A large number of studies, reports, articles and conferences have clearly identified the problems affecting the administration of justice, but a response in proportion to the needs expressed has not occurred.

It is important to mention, also, that organizations in Nunavik have often been spectators rather than actors in the changes made in their areas of jurisdiction. These organizations must place more value on the role they play in the administration of justice, without expecting everything to come from the South.

I have highlighted certain specific situations so that we can begin to work together in order to provide a system that is able to respond to the true aspirations of the Nunavimmiut. The specific situation of women in Nunavik must also be considered.

Based on the profile of Inuit women in prison, as reported by criminologist Renée Brassard (2005) and the First Nations and Inuit Labour Market Advisory Committee (2015), the violence of which they were the victims led to them becoming offenders themselves, as reflected in their abnormally high incarceration rate [...].

These Inuit women faced challenges that made them both offenders and victims: they lost custody of their children, needed to be medicated to ensure their mental and physical health, were segregated, suffered injustice and abuse in prison, and found it difficult to rejoin their community after being released.

According to some authors, the current situation of Inuit women is connected to the devastating impact of the residential schools, the disintegration of the families for which they were responsible prior to the colonial administration, their social and cultural isolation in the city, their excessive use of drugs and alcohol, and the pressure and exclusion they experience when they decide to report an aggressor (*Chaire de recherche sur les relations avec les sociétés inuit, Les femmes inuit, la justice et l'harmonie sociale : une revue de la littérature*, Mathilde Lapointe, September 2019).

I have observed, over the course of many years, that women are and always will be the true vectors of change. I cannot emphasize their contribution enough. I have met with so many women who put their hearts into improving the lives of their fellow citizens, and I would like to devote my final lines to them, by citing from a report produced by Université Laval, *Inuit Women Who Work in Nunavik Justice Services*:

Inuit women do not encounter the justice system in Nunavik only as victims, offenders, or family members of victims or offenders. Nowadays, many take part in the justice system as court interpreters, victim support agents, community reintegration officers, and justice committee members, [I would add parajudicial workers here] among other positions. They often work with people in very difficult situations, hearing their tragic stories and perhaps feeling helpless. They nonetheless try their best to provide support, give advice, share their personal knowledge, and bring positive changes to the lives of others. [...]

We identified 124 positions occupied by Inuit women in Nunavik justice services. Women occupied 83% of the 149 positions held by Inuit in this area of activity. [...]

Many Inuit women work in Nunavik justice services, and they are very dedicated to their communities, but they are also widely scattered in different communities and organizations. This situation contributes to a sense of isolation and a heavy emotional overload. Therefore, both employees and employers acknowledge the need to build a support and solidarity network to bring these women together. Another priority is to improve overall relations between the justice system and the communities in order to create more social cohesion. [...]

By appreciating and supporting the role of women who work in justice services, it will become possible to build the capacity of Inuit communities to maintain social harmony through the revitalization of their culture.

We need the winds of change to blow in our favour—we need a Saqijuq!

Jean-Claude Latraverse

## ACKNOWLEDGMENTS

This report has been made possible by the cooperation of all the people who agreed to talk about their concerns, their personal history and their relationship with the justice system in Nunavik. These men and women placed their trust in me, and I cannot thank them enough.

I would like to highlight the immeasurable support provided by the Inuit individuals working as justice committee members, parajudicial workers, youth protection workers, lawyers and prosecutors, judges and elders, as well as the Makivik Justice Department and the MJQ.

I thank my family and friends who supported (and tolerated) my months of reflecting, questioning and writing.

My special thanks go to the people who corrected and translated this report.

In closing, I offer my sincere thanks to the President of Makivik Corporation, Pita Aatami, and Québec's Minister of Justice, Simon Jolin-Barette, for choosing me as their special rapporteur. I hope they will not be disappointed!

Nakkurmik!

Atsunai!

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## SUMMARY OF RECOMMENDATIONS

- 1 THAT DOCKET MANAGEMENT SESSIONS BE ADDED FOR THE COURT OF QUÉBEC, BASED ON A CALENDAR DRAWN UP BY JUDGES.**

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- 2 THAT TWO DOCKETS BE PREPARED BY THE COURT ADMINISTRATION, ONE FOR NEW APPEARANCES AND THE OTHER FOR STATING A POSITION ON A CASE, FOR COURT DAYS ON MONDAYS AND COURT DAYS IN THE COMMUNITIES VISITED DURING THE WEEK.**

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- 3 THAT DEFENCE LAWYERS AND PROSECUTORS TRAVEL TO THE MAIN COMMUNITY AND THE COMMUNITIES VISITED TO PREPARE THEIR CASES BEFORE THE COURT SESSION.**

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- 4 THAT AN AGREEMENT BE ENTERED INTO BY LAWYERS IN PRIVATE PRACTICE AND THE COMMISSION DES SERVICES JURIDIQUES OR THE CENTRE COMMUNAUTAIRE JURIDIQUE DE L'ABITIBI-TÉMISCAMINGUE AND THE MJQ TO ALLOW THE LAWYERS TO TRAVEL TO COMMUNITIES IN THE WEEKS PRIOR TO COURT SESSIONS.**

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- 5 THAT PARAJUDICIAL WORKERS AND SAPUMIJIIT AGENTS HELP LAWYERS ARRANGE MEETINGS WITH CLIENTS.**

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- 6 THAT THE MINISTÈRE DE LA JUSTICE, WORKING CLOSELY WITH THE INUIT ORGANIZATIONS CONCERNED, DRAFT AN IMPLEMENTATION PLAN TO INCREASE THE PACE OF DEVELOPMENT OF VIRTUAL HEARING ROOMS IN COMMUNITIES.**

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- 7 THAT THE COURT OF QUÉBEC DEFINE A SPECIAL CALENDAR FOR THE NEW FACILITIES AND EQUIPMENT AS AND WHEN THEY BECOME AVAILABLE, IN ORDER TO USE VIRTUAL COMMUNICATIONS WHENEVER POSSIBLE TO ACCELERATE THE PROCESSING OF CERTAIN CASES AND REDUCE THE NEED FOR PEOPLE TO TRAVEL TO COURT.**

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- 8 THAT THE COURT HOLD OCCASIONAL COURT SESSIONS IN THE COMMUNITIES OF TASIUJAQ, AUPALUK, UMIUJAQ, AKULIVIK AND IVUJIVIK.**

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- 9 THAT THE MINISTER OF JUSTICE MAKE AN ORDER ALLOWING THE SUPERIOR COURT TO SIT IN COMMUNITIES WHERE SERIOUS CRIMES ARE COMMITTED.**

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- 10 THAT THE COURT SCHEDULE TWO OR THREE WEEKS IN THE CALENDAR TO HOLD TRIALS AND HEAR MOTIONS (I KNOW THAT AN ANNOUNCEMENT HAS BEEN MADE ON THIS TOPIC).**

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- 11 THAT THE COURT SCHEDULE SESSIONS OF TWO SUCCESSIVE WEEKS IN THE SAME COMMUNITY.**

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- 12 THAT THE COURT USE EXISTING TECHNOLOGY TO SCHEDULE TWO THREE-HOUR VIRTUAL PERIODS PER TERM FOR JOINT SUBMISSIONS OR POSTPONEMENTS.**

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- 13 THAT THE COURT AGREE TO PROCEED USING A MEANS OF TELECOMMUNICATION WHEN IT CANNOT TRAVEL TO A COMMUNITY.**

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- 14 THAT THE CRITERIA FOR THE NON-JUDICIAL TREATMENT OF OFFENCES BE CHANGED TO BETTER REFLECT THE SPECIFIC SITUATION OF THE NUNAVIMMIUT.**

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- 15 THAT THE DIRECTIVES FOR PROSECUTORS APPOINTED BY THE DCPP BE STRENGTHENED TO REQUIRE THEM TO CONSIDER ALTERNATIVE MEASURES RATHER THAN LAY CHARGES.**

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- 16 THAT THE MINISTER OF JUSTICE ALLOW THE APPLICATION OF SECTION 320.23 OF THE CRIMINAL CODE AND ACCEPT THE PRINCIPLES IT STATES.**

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- 17 THAT A MINISTERIAL GUIDELINE SPECIFICALLY FOR INUIT AND FIRST NATIONS COMMUNITIES BE CONSIDERED, TO ALLOW A DIRECTIVE TO BE MADE THAT BETTER REFLECTS THE NEEDS OF INDIGENOUS PEOPLE.**

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- 18 THAT THE INDIGENOUS ALTERNATIVE MEASURES PROGRAM FOR ADULTS BE BROADENED TO INCLUDE OFFENCES RELATING TO THE ADMINISTRATION OF JUSTICE AND THE OPERATION OF A VEHICLE.**

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- 19 THAT THE CRITERIA BE CHANGED TO ALLOW OFFENDERS TO JOIN A PROGRAM UNDER THE ALTERNATIVE MEASURES PROGRAM.**

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- 20 THAT PARALEGALS BE HIRED TO WORK EXCLUSIVELY FOR THE PROSECUTION AND PROVIDE LIAISON BETWEEN PROSECUTORS, WITNESSES AND VICTIMS.**

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- 21 THAT INTERPRETERS/TRANSLATORS BE HIRED TO WORK EXCLUSIVELY WITH PROSECUTORS.**

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- 22 THAT THE DCPP OFFICE FOR THE NORTH, SERVING INUIT COMMUNITIES, BE MOVED TO MONTRÉAL.**

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- 23 THAT THE DCPP OFFICE IN KUJJUAQ BE REOPENED AND STAFFED BY PERMANENT PROSECUTORS.**

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- 24 THAT THE LEGAL AID OFFICE IN KUJJUAQ BE RE-OPENED TO ENSURE THAT LEGAL AID LAWYERS ARE PRESENT AT ALL TIMES.**

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- 25 THAT LEGAL AID BE PROVIDED FOR ALL INUIT, REGARDLESS OF INCOME.**

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- 26 THAT A SCHEDULE BE ESTABLISHED FOR MOBILE LEGAL AID CLINICS PROVIDED BY LEGAL AID LAWYERS.**

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- 27 THAT LAWYERS PRACTISING IN NUNAVIK RECEIVE SPECIAL MANDATORY TRAINING ON DISPUTE RESOLUTION MODES AND INUIT CUSTOMS.**

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- 28 THAT LAWYERS ACT MORE DILIGENTLY TO PARTICIPATE IN BAIL HEARINGS.**

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- 29 THAT A NEW, MORE SUITABLE COURTHOUSE BE BUILT IN KUJJUAQ.**

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- 30 THAT THE PERMANENT COURT OFFICE BE RE-OPENED IN KUJJUAQ.**

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- 31 THAT INTERPRETERS BE HIRED TO WORK WITH ALL PARTIES.**

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- 32 THAT MAKIVIK CORPORATION PASS AN IRREVOCABLE RESOLUTION TO MAKE THE JUSTICE SYSTEM A PRIORITY OVER THE NEXT 15 YEARS.**

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- 33 THAT MAKIVIK CORPORATION AND LOCAL LEADERS ENCOURAGE THE TAKING BACK OF POWER OVER THE LEGAL SYSTEM.**

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- 34 THAT LEGAL CLINICS FINANCED BY THE MJQ BE ESTABLISHED QUICKLY, IN COLLABORATION WITH INUIT ORGANIZATIONS.**

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- 35 THAT TRAINING BE IMPROVED FOR INUIT PLAYERS IN THE SOCIO-JUDICIAL SYSTEM (MEDIATION, DISPUTE RESOLUTION, CRIMINAL AND FAMILY LAW, NON-SUGGESTIVE SOCIAL SUPPORT, ACTIVE LISTENING, ETC.).**

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- 36 THAT JUSTICE CENTRES BE BUILT OR PLANNED AS PART OF EXISTING BUILDINGS.**

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- 37 THAT THE INUIT ORGANIZATIONS (KRG, MAKIVIK, THE NRBHSS) WORK MORE CLOSELY WITH EACH OTHER IN THE FIELD OF JUSTICE IN NUNAVIK.**

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- 38 THAT THE KRG BY INVOLVED IN BUILDING SUITABLE INFRASTRUCTURES IN KUJJUAQ AND OTHER COMMUNITIES.**

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- 39 THAT THE MINISTER OF JUSTICE, WORKING WITH THE LOCAL AUTHORITIES, ESTABLISH A REGIONAL COURT IN NUNAVIK TO HEAR CASES INVOLVING MUNICIPAL BY-LAWS OR UNDER PART XVII OF THE *CRIMINAL CODE*.**

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- 40 THAT THE BARREAU, WORKING WITH INUIT ORGANIZATIONS, UNIVERSITIES, L'ÉCOLE DU BARREAU AND THE MJQ, ESTABLISH MANDATORY TRAINING FOR LAWYERS WHO WANT TO PRACTISE IN NUNAVIK.**

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- 41 THAT THE BARREAU SEND A MISSION TO NUNAVIK TO FIND OUT MORE ABOUT THE COMPLAINTS FILED BY INUIT INDIVIDUALS CONCERNING THE DELIVERY OF SERVICES BY LAWYERS.**

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- 42 THAT THE BARREAU BE MORE VIGILANT CONCERNING THE BILLING OF FEES BY LAWYERS IN PRIVATE PRACTICE.**

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- 43 THAT THE BARREAU IMPLEMENT INFORMATION CAMPAIGNS, IN THREE LANGUAGES (FRENCH, ENGLISH AND INUKTITUT), CONCERNING THE RIGHTS OF OFFENDERS REPRESENTED BY A LAWYER.**

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- 44 THAT JUDGES LOOK AT NEW WAYS TO ORGANIZE THE HEARING OF THE ITINERANT COURT (REMOTE TESTIMONY, VIRTUAL HEARINGS, TRAVEL TO COMMUNITIES).
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- 45 THAT JUDGES BE ENCOURAGED TO USE APPROACHES THAT INVOLVE LESS DISTURBANCE FOR WITNESSES AND VICTIMS, INCLUDING TESTIMONY BY VIDEO CALL.
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- 46 THAT JUDGES ALLOW MORE LATITUDE FOR PARTICIPANTS IN ITINERANT COURT HEARINGS.
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- 47 THAT WAYS BE FOUND TO REDUCE THE FORMALITY OF COURT HEARINGS AND ADAPT THEM TO INDIGENOUS REALITIES, IN BOTH CRIMINAL AND YOUTH PROTECTION CASES.
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- 48 THAT THE CALLING OF THE DOCKET IN THE WEEKS LEADING UP TO EACH COURT SESSION BE CONTINUED FOR YOUTH PROTECTION CASES.
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- 49 THAT THE POSSIBILITY OF HOLDING YOUTH PROTECTION SESSIONS IN VARIOUS COMMUNITIES IN HUDSON BAY BE EXAMINED.
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- 50 THAT THE MJQ, WORKING WITH THE INUIT ORGANIZATIONS RESPONSIBLE, DRAW UP AN IMPLEMENTATION PLAN TO ACCELERATE THE DEPLOYMENT OF VIRTUAL HEARING ROOMS IN PLACES OTHER THAN YOUTH PROTECTION OFFICES.
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- 51 THAT YOUTH PROTECTION LAWYERS BE PRESENT IN NUNAVIK AT ALL TIMES, LIKE THE LAWYERS ACTING IN CRIMINAL CASES, ON A ROTATING SCHEDULE.
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- 52 THAT ALL PLAYERS IN THE COURT SYSTEM RESTRICT THEIR ACTIONS TO THEIR MANDATE AND THEIR POWERS UNDER EXISTING LEGISLATION IN ORDER TO LIMIT DEBATE IN COURT, WHETHER FOR APPLICATIONS MADE BY THE DIRECTOR OF YOUTH PROTECTION, THE QUESTIONS AND PLEADINGS OF LAWYERS IN THE COURTROOM, OR JUDGES' QUESTIONS AND DECISIONS, BY OBSERVING THE LIST OF MEASURES THAT MAY BE ORDERED UNDER SECTION 91 OF THE YOUTH PROTECTION ACT.
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- 53 THAT A MECHANISM TO REIMBURSE THE TRAVEL EXPENSES OF DEFENCE LAWYERS IN PRIVATE PRACTICE BE CONSIDERED.**
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- 54 THAT SPECIFIC TRAINING ON INUIT FAMILY TRADITIONS AND DYNAMICS BE PROVIDED AND MADE MANDATORY FOR LAWYERS WORKING IN NUNAVIK IN THE FIELD OF YOUTH PROTECTION.**
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- 55 THAT THE NUMBER OF COURT WEEKS DEDICATED TO YOUTH PROTECTION CASES BE INCREASED.**
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- 56 THAT SOCIAL WORKER VACATION DATES AND COURT DATES BE COORDINATED MORE EFFECTIVELY.**
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- 57 THAT PRIORITY BE GIVEN TO SUPPORT FOR AND THE DEVELOPMENT OF THE NUNAVIMMI ILAQIIT PAPAUTAUINGA PROGRAM SO THAT IT CAN GROW AS QUICKLY AS POSSIBLE TO RESPOND TO THE NEEDS OF CHILDREN AND FAMILIES IN NUNAVIK IN A SUITABLE WAY.**
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- 58 THAT PROCEEDINGS AND REPORTS BE TRANSLATED SYSTEMATICALLY INTO INUKTITUT.**
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- 59 THAT THE PRESENCE OF AN INTERPRETER BE ASSURED OUTSIDE THE COURTROOM DURING COURT SESSIONS, AND THAT PREPARATORY MEETINGS BE ORGANIZED TO ALLOW LAWYERS TO SPEAK WITH THEIR CLIENTS.**
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- 60 THAT THE NRBHSS OFFER SUPPORT AND FOLLOW-UP FOR TEENAGERS UNTIL THE AGE OF 20.**
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