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# FIRST FOLLOW-UP REPORT ON THE VIENS COMMISSION

ASSESSMENT OF THE IMPLEMENTATION OF THE 142 CALLS FOR ACTION  
OF THE PUBLIC INQUIRY COMMISSION ON RELATIONS BETWEEN  
INDIGENOUS PEOPLES AND CERTAIN PUBLIC SERVICES IN QUÉBEC:  
LISTENING, RECONCILIATION AND PROGRESS

OCTOBER 2023



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### Cover design and illustration

Niaka Agence créative autochtone, by Valérie Laforce

### Concerning the cover illustration

Since time immemorial, bird migration has signalled the change in seasons. The distinguishing feature of Canada geese is their ability to keep up a "conversation" with their fellow travellers throughout their long trek so that they can maintain contact, fly in formation and take turns leading the flock. This is how we have come to associate them with communication, mutual respect and collaboration.

Abenaki in origin, Valérie Laforce has been active in the Indigenous community for more than ten years. This illustration depicts movement towards a common destination and determined action on a serene blue background and watermark arrows. The touches of mauve traditionally denote healing, and the orange is borrowed from the Québec Ombudsman's logo.

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# THE QUÉBEC OMBUDSMAN MISSION

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

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

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

On June 21, 2021, on its own initiative, the Québec Ombudsman began its work of analyzing the implementation of the calls for action stemming from the work of the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress.



# NOTE

This report reflects the Québec Ombudsman's respect for First Nations and Inuit in all aspects of their endeavours to assert their basic rights, in particular, their linguistic rights. With this in mind, it uses the terminology and spelling recommended by Indigenous peoples. For example, the term "elder" is always capitalized (Elder) and the word "Inuit" remains invariable, even in the plural.

The term "First Nations" includes the Abénakis/W8banaki, the Anishinabeg/Anicinapek (Algonquins), the Atikamekw Nehirowisiw, the Eeyou/Eenou (Creeps), the Wendat (Hurons-Wendat), the Innu, the Wolastoqiyik Wahsipekuk (Malecites), the Mi'gmaq, the Kanien'kehá:ka (Mohawks) and the Naskapi. The expression "Indigenous peoples" designates First Nations and Inuit. In this report, we will refer to and distinguish between Indigenous communities covered by an agreement and those that are not. Communities covered by an agreement are established on the territories to which the James Bay and Northern Quebec Agreement (JBNQA) and the Northeastern Quebec Agreement (NEQA) apply, signed by the Government of Québec. The other communities are those located on territories that are not covered by an agreement.

Basically, the content of this report was sourced from the information the Québec Ombudsman gathered over the course of the work it carried out, from government bodies and from First Nations and Inuit representatives alike. As a result, readers can assume that all the findings were taken from the information we collected, even though this is not indicated in the text.





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# LIST OF ACRONYMS

ADPQ	Association des directeurs de police du Québec	MSSS	Ministère de la Santé et des Services sociaux
AFNQL	Assembly of First Nations Québec-Labrador	NIHB	Non-insured health benefits for First Nations and Inuit
BEI	Bureau des enquêtes indépendantes	NIMMIWG	National Inquiry into Missing and Murdered Indigenous Women and Girls
CAVAC	Centre d'aide aux victimes d'actes criminels	NPJSQ	Native Para-Judicial Services of Quebec
CBHSSJB	Cree Board of Health and Social Services of James Bay	NRBHSS	Nunavik Regional Board of Health and Social Services
CDPDJ	Commission des droits de la personne et des droits de la jeunesse	PAJIC	Programme d'accompagnement justice et intervention communautaire
CHSLD	Residential and long-term care centre	PAJ-SM	Programme d'accompagnement justice et santé mentale
CISSS	Integrated health and social services centre	PAJ-SM	Programme d'accompagnement justice et santé mentale
CIUSSS	Integrated university health and social services centre	PIJ	Projet intégration jeunesse
CNA	Conseil de la Nation Atikamekw	PMRA	Programme de mesures de rechange pour les adultes en milieu autochtone
CQLC	Commission québécoise des libérations conditionnelles	PMRG	Programme de mesures de rechange général pour les adultes
CRC	Community Residential Centres	PMRG-A-MU	Programme de mesure de rechange général pour Autochtones en milieu urbain
CRJDDA	Rehabilitation centre for youth with difficulties	PQJ	Youth qualification program
CSDEPJ	Special Commission on the Rights of the Child and Youth Protection	PSR	Pre-sentencing report
DCMAA	Direction de la coordination ministérielle et des affaires autochtones	QAFNIPD	Quebec Association of First Nations and Inuit Police Directors
DGDBEPJ	Direction générale du développement, du bien-être et de la protection de la jeunesse	QNW	Quebec Native Women
DRCA	Division des relations avec les communautés autochtones	RBAC-PCQ	Risque, besoins et analyse clinique – Personnes contrevenantes du Québec
DYP	Director of Youth Protection	RCAAQ	Regroupement des centres d'amitié autochtones du Québec
EMIPIC	Mixed intervention team – Police officers and community workers	SCF	Secrétariat à la condition féminine
ENPQ	École nationale de police du Québec	SIAA	Système d'intervention d'autorité Atikamekw
FNQLHSSC	First Nations of Québec and Labrador Health and Social Services Commission	SMSC	Sous-ministériat des services correctionnels
FTR	Family-type resource	SQ	Sûreté du Québec
HSSN	Health and social services network	SRPNI	Secrétariat aux relations avec les Premières Nations et les Inuit (formerly the Secrétariat aux affaires autochtones or SAA)
ISC	Indigenous Services Canada	TRC	Truth and Reconciliation Commission of Canada
KRG	Kativik Regional Government	UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
LSSSS	Act respecting health services and social services	UQ	Université du Québec
MAMH	Ministère des Affaires municipales et de l'Habitation	UQAM	Université du Québec à Montréal
MES	Ministère de l'Enseignement supérieur	UQAT	Université du Québec en Abitibi-Témiscamingue
MEQ	Ministère de l'Éducation du Québec	YPA	Youth Protection Act
MJQ	Ministère de la Justice du Québec		
MLF	Ministère de la Langue française		
MSP	Ministère de la Sécurité publique		

# MESSAGE FROM THE QUÉBEC OMBUDSMAN

## Co-constructing Tomorrow's Public Services with First Nations and Inuit

In September 2019, the **Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress** tabled its report. The document contains 142 calls for action aimed at sweeping changes to the experience of First Nations and Inuit with the public services concerned. One question remains: what's next?

Some maintain that most of the recommendations or calls for action gleaned from the numerous consultations and investigations regarding Indigenous issues in recent decades have produced very little in the way of tangible outcomes. As a result, it is imperative that there be a follow-up mechanism for ensuring that the report's calls for action are indeed implemented. For this follow-up to be independent and impartial, it takes an institution with proven rigour, credibility and expertise. This was the background for the Viens Commission's Call for Action No. 138: **"Give the Québec Ombudsman the mandate to assess and follow up on the implementation of all the calls for action proposed in this report until such time as they have been fully executed."**

The basic responsibility to see that citizens' rights are upheld in their relations with certain Québec public services, more specifically in this case, those of First Nations and Inuit, is part of the DNA of the institution that I helm. In this respect, assessing the implementation of the Viens Commission's calls for action is perfectly aligned with our mission, and it is an honour to be able to contribute.

The mandate entrusted to the Viens Commission was to investigate, ascertain the facts and make analyses with a view to making recommendations as to the concrete, effective and sustainable measures to prevent or eliminate, regardless of their origin or cause, any form of violence or discriminatory practices or differential treatments of Indigenous peoples in the following public services: police services, correctional services, justice services, health and social services and youth protection services.<sup>1</sup>

The Viens Commission held 38 weeks of hearings in Val-d'Or, Montréal, Québec City, Uashat Mak Mani-Utenam, Mistissini, Kuujjuarapik and Kuujuaq. It received more than 1,000 testimonies and analyzed 1,300 documents filed as evidence.



I applaud the courage and resilience of the Indigenous people who attested to the discrimination they faced in their treatment by certain public services. Only one conclusion is possible: the Viens Commission's findings are based on credible documentation and testimonies that validate the various calls for action stemming from them. These findings provide ample grounds for our institution to intervene so that it can contribute to rectifying the harm documented.

Our assessment team has performed a herculean task in presenting this status report on the measures established for responding to the calls for action, taking into account the realities of the parties involved. The fact is that input from Indigenous representatives and organizations is crucial to understanding their issues and to recommending relevant actions. This is why I want to extend a special word of appreciation

<sup>1</sup> National Assembly of Québec, *Establishment of the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress*, Courtesy translation of Decree 1095-2016, (2016) 1095 G.O.Q. II, p. 3. [Hereinafter "Decree 1095-2016"].

to the members of the Indigenous Advisory Circle, who generously committed to support our follow-up process. Hearing the perspectives of the various Indigenous organizations as much as those of government departments and agencies on the measures for implementing the Viens Commission's calls for action has been the very bedrock on which the impartiality of our assessment rests.

Public bodies have the responsibility and duty to act concretely and with the required heft to put an end to the sources of the systemic discrimination experienced by First Nations and Inuit in Québec. I am therefore calling for a strong and unifying vision in rebuilding our relations with First Nations and Inuit. Faithful to our principles of justice and fairness, we can act together to repair the mistakes of the past and ensure that the rights of all are respected.

My most sincere wish is that this analysis will pave the way for a transformative era for public services, one in which First Nations and Inuit will be recognized and respected as distinct, autonomous and equal. Then will we be able to say that we are moving collectively towards listening, reconciliation and progress.



Marc-André Dowd, Québec Ombudsman

# SUMMARY

## Why a public inquiry?

In 2016, further to allegations of police brutality towards Indigenous women in Val-d'Or and Abitibi-Témiscamingue, the Government of Québec created the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress (the Viens Commission). The Commission's final report was published on September 30, 2019.

## Follow-up entrusted to the Québec Ombudsman

The Viens Commission's final report contains 142 calls for action. These include a request to the government to entrust to the Québec Ombudsman the follow-up on these calls for action until they are fully achieved. The Québec Ombudsman therefore began discussions to obtain the opinion of First Nations and Inuit authorities and organizations on this mandate. Having obtained their approval, in 2021 it announced that it would begin work.

## Advisory Circle

With a view to impartiality and rigour, in addition to consulting government departments and agencies, follow-up work was conducted in collaboration with an Advisory Circle. Composed of representatives of First Nations and Inuit organizations, it was mandated to advise the Québec Ombudsman's team and to provide feedback about the assessment of the follow-up on the calls for action.

## The Québec Ombudsman's findings

The Québec Ombudsman has concluded that nearly four years after the Viens report was tabled, **slightly less than one third of the Viens Commission's calls for action have been implemented or are progressing as expected**. However, it concedes that it would be unfair to put all the calls for action on an equal footing when it comes to efforts, resources or the time needed to achieve them.

The underperformance in terms of goal attainment is due to:

- Lack of an overall strategy by the Government of Québec regarding follow-up to the Viens Commission's calls for action;
- Lack of substantive planning based on coordinating the main authorities;
- Fragmented initiatives that limit systemic change;
- The fact that the opinions of First Nations and Inuit representatives expressed at forums and committees are not fully taken into account. Often, their contribution is sought only after the government apparatus has made a decision;
- Government authorities' lack of eagerness for giving full effect to the recognition of Indigenous people's rights, notably by not making these rights part of public service organization and delivery and by failing to make the changes that this recognition requires;
- The fact that tripartite negotiations between the federal and provincial governments and First Nations and Inuit have not led to real advances so far;
- The fact that the resources allocated by the government to respond to the needs and priorities identified by the Viens Commission are insufficient, which shows that public decision-makers lack a sense of urgency about issues that are disturbing.

## Cross-disciplinary calls for action

### Of the 26 cross-disciplinary calls for action:

- 3 have been fully implemented
- 4 are progressing as expected
- 19 have not generated any satisfactory outcomes.

Among the objectives to attain was that the **United Nations Declaration on the Rights of Indigenous Peoples** be enshrined within Québec's legislative framework further to a joint process involving the Government of Québec and the Indigenous representatives. Also, there is the need to produce a clear picture of First Nations and Inuit realities by collecting and analyzing **reliable ethno-cultural data**, and the pressing need to address **housing**. In another vein, public authorities must roll up their sleeves to co-construct a strategy for protecting and promoting First Nation and Inuit language rights. Also, there must be a **strategic overall vision in education** that makes it possible to adapt and match school services to the needs of Indigenous pupils and students, while respecting the autonomy of First Nations and Inuit communities and institutions. Lastly, a change in the mindset and practices within government departments and agencies hinges on **structured professional development for staff**.

## Sector-based calls for action

### Of the 13 calls for action concerning police services:

- Only 1 has been fully implemented
- 4 are progressing as expected
- 8 have not generated any satisfactory outcomes.

The objectives to attain include global and concerted implementation of the calls for action by municipal police forces. To do this, **clear guidelines common to all police services must be adopted**. It is also important that Indigenous police services be **recognized as autonomous bodies and essential services**. This would enable them to have sustainable funding, to negotiate as equals with other police forces and the governments of Québec and Canada, and to affirm their jurisdiction. As it now stands, tripartite negotiations (federal and provincial governments and Indigenous communities) are stalled. Lastly, the **security of Indigenous women** and their right to physical integrity and to equality must be a foremost concern for police services. This objective remains to be defined and made a priority. In this regard, a mechanism for following up on the calls for justice in the NIMMIWG's Supplementary Report for Québec is essential.

### Of the 16 calls for action concerning justice services:

- 2 have been fully implemented
- 7 are progressing as expected
- 7 have not generated any satisfactory outcomes.

As the Viens Commission sees it, in many respects, Québec's legal system is incompatible with Indigenous values and legal traditions. Among the objectives to achieve, studying and **promoting Indigenous law** must be a priority, along with the legislative amendments needed to ensure greater **autonomy for Indigenous communities** in handling offences committed by their members. The quality of **collaboration by the Ministère de la Justice with Indigenous partners** must be improved so that every person involved fully engages in moving projects forward and so that trust and recognition prevail. Moreover, interdepartmental dialogue and cooperation must be strengthened in matters of justice-related issues. Lastly, it is high time that action be taken to increase **access of the population of Nunavik to justice services**.

### Of the 18 calls for action concerning correctional services:

- only 1 has been fully implemented
- 7 are progressing as expected
- 10 have not generated any satisfactory outcomes.

Among the objectives to achieve, action is needed across the entire correctional system to generate radical change and, ultimately, **eliminate systemic discrimination against First Nations and Inuit**. How correctional services operate for Indigenous people must be rethought and system tools and standards must be redefined. Also, conditions must be put in place **to foster fruitful collaboration between public authorities and all Indigenous partners**, current and future, with a view to promoting and maintaining equal-to-equal dialogue. Lastly, improving and adapting the **prison conditions of First Nations and Inuit women**, as well as factoring in their specific needs, must be priorities and call for urgent corrective action.

### Of 34 calls for action concerning health services and social services:

- Only 1 has been implemented
- 9 are progressing as expected
- 24 have not generated any satisfactory outcomes.

The breadth of the changes expected in health and social services demands a **long-term global strategy** to counter the fragmentation that could well be caused by the sheer number of projects in fields deemed priorities by the Ministère de la Santé et des Services sociaux (MSSS). In the same vein, preventing discrimination must figure among the broad thrusts proposed by MSSS in establishing clear guidelines that institutions must follow before new tragedies occur. It also seems important that MSSS extend the scope of the principle of population responsibility if it intends to promote and achieve true equality in terms of access to health and social services by First Nations and Inuit no matter where they live. Furthermore, it is crucial that departmental representatives have what they need for **committee work to come to fruition**. Finally, it seems essential that **tripartite negotiations** be devoted to developing solutions to the problems of access to healthcare and social services identified in CERP, based on prioritization carried out jointly with the Indigenous authorities concerned.

**Of the 30 calls for action concerning youth protection services:**

- only 1 has been fully implemented
- 3 are progressing as expected
- 26 have not generated any satisfactory outcomes.

First and foremost, service effectiveness objectives entail strengthening collaboration between Indigenous organizations and MSSS as equals. **This vision of co-construction must extend to all the province's DYPs working in an Indigenous context.** If there are to be reforms that can bring about systemic changes within youth protection services, global directives accompanied by the levers needed to implement them are required. Close monitoring will also ensure the consistency of actions throughout the network.

These transformations must come with practice support tools created with the specific characteristics of Indigenous Peoples in mind, with the explicit aim of eliminating all forms of discrimination in applying the Youth Protection Act (YPA) and related departmental policies and directives. To achieve this, given the scope of the issues involved in youth protection in an Indigenous context, it is urgent and imperative that MSSS have sufficient expertise and internal resources. Finally, MSSS's actions must be aimed at achieving concrete, lasting and measurable results, while respecting Indigenous rights and focusing on increasing their autonomy in youth protection.

## Overall findings

After analyzing the initiatives put in place by the various departments and agencies in response to the Viens Commission's 142 calls for action, the Québec Ombudsman has come to the conclusion that action by the government apparatus as a whole should be based on the following five overarching principles:

- **Adopt an overall strategy for implementing the calls for action and improve departmental coordination:** leadership with the necessary instruments to coordinate the actions of all public sectors is required to achieve objectives, particularly with regard to implementing cross-disciplinary calls for action.

- **Increase coherence between commitments and actions concerning First Nations and Inuit:** government actions are not systematically in line with commitments to principles, which can limit recognition and exercise of First Nations and Inuit rights, in addition to undermining the trust of Indigenous representatives in their ministerial counterparts.
- **Generate systemic change:** the Québec government's actions do not always reflect a tangible desire to redefine public services in depth so that they meet Indigenous citizen's needs and aspirations.
- **Improve collaboration and co-constructing solutions with Indigenous representatives:** although changes in the ways of collaborating have been observed in certain sectors, a more sustained willingness to co-construct with Indigenous authorities, particularly by opening discussions upstream from government initiatives – including draft legislation – is lacking.
- **Understand the purpose of calls for action that are imprecisely or unrealistically worded:** when relevant, the Québec government should focus on resolving the issues underlying the wording of calls for action and seek to understand how they are interpreted by Indigenous authorities and representatives.

## Summary table

In the Appendix to this report, the Québec Ombudsman reviews each call for action and comments on its application, progress or, on the contrary, the results pending.







# INTRODUCTION

The final report of the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress (hereinafter the Viens Commission or CERP) was published on September 30, 2019, the culmination of three years of work.

It must be remembered that allegations of police brutality against Indigenous women in Val-d'Or prompted the Government of Québec to create this inquiry commission in 2016, chaired by the Honourable Jacques Viens. In its decree, the government states from the outset that it mandates the commission to reveal and prevent the causes of violence, systemic discrimination or differential treatment in relations between Indigenous peoples and public services.<sup>2</sup>

**The Viens Commission made it possible to confirm that First Nations and Inuit are indeed victims of systemic discrimination in their relations with public services,<sup>3</sup> primarily for four reasons:**

- A colonialist heritage;
- Widespread misconceptions by public authorities about First Nations and Inuit characteristics, needs and demands;
- A distorted public image;
- Piecemeal and unsustainable government actions.<sup>4</sup>

By the time work was completed, CERP had made 142 calls for action. In one of them, the Viens Commission recommended that the Government of Québec give the Québec Ombudsman the mandate to ensure follow-up on the recommendations, until they are fully achieved.<sup>5</sup>

<sup>2</sup> Decree 1095-2016, cited above, footnote 1, p. 3.

<sup>3</sup> VIENS, Jacques (Chair). *Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress – Final Report*, 2019, p. 203. [Hereinafter "CERP Final Report (2019)"].

<sup>4</sup> *Ibid.*, pp. 204-214.

<sup>5</sup> Call for Action No. 138: "Give the Québec Ombudsman the mandate to assess and follow up on the implementation of all the calls for action proposed in this report until such time as they have been fully executed."

Therefore, in 2020, the Québec Ombudsman had meetings and discussions to gauge First Nations and Inuit authorities' and organizations' openness to this mandate. Further to their approval, in June 2021 the Québec Ombudsman announced that it would begin work. For this purpose, it formed a team tasked with following up on the calls for action and with advising it about assessing the public services provided to First Nations and Inuit. From June 2022 to June 2023, the team collected data from the government departments and agencies concerned and from various First Nations and Inuit organizations. This report presents the results of this data analysis and is thus an independent and exhaustive follow-up to the Viens Commission.<sup>6</sup>

This mandate, the first of its kind for the Québec Ombudsman, is in keeping with its mission to oversee the rights of citizens in their dealings with Québec's public services. The Québec Ombudsman intervenes when it has reason to believe that a person or a group of people has been harmed or is likely to be harmed by a government department, public agency or any institution or facility that dispenses health services and social services. The findings of the Viens Commission provided reasonable grounds for the Québec Ombudsman to intervene to rectify the prejudices corroborated by credible documentary sources.

Once its consultations and analyses were completed, the Québec Ombudsman concluded that **slightly less than one third of the Viens Commission's calls for action had been implemented or were progressing as they should.** The others had not yet led to the expected outcomes. Be that as it may, it is important to point out that not all calls for action require the same level of effort or resources, and that some of them are sure to take several years before they can be considered achieved, even if initiatives are underway. Another important element: in order to be implemented, several calls for action require collaboration with First Nations and Inuit communities, which may affect the length of time the work may take. Lastly, some calls for action concern Indigenous authorities. The assessment of the initiatives carried out in response to these calls for action will be addressed in the next edition of the Viens Commission follow-up report. In the meantime, when required by the context, the Québec Ombudsman has adjusted its evaluation of them.

**In the following pages, the Québec Ombudsman will therefore describe the progress made in implementing the Viens Commission's calls for action. This portrait shows that some action has occurred, but that required progress is slow, notably because human and financial resources are insufficient, thereby limiting the ability to act. Moreover, there is a lack of coherent policies, concerted initiatives, and serious questioning of practices by various public services.**

The Québec Ombudsman has noted that in addition to the silo approach and circumscribed initiatives, persistent ignorance about the specific realities of First Nations and Inuit is yet another obstacle in redefining the government services intended for them.

That is not to say that nothing has been done. In recent years, there have been important initiatives, such that the Secrétariat aux relations avec les Premières Nations et les Inuit (SRPNI) has seen progress and greater involvement by government departments in Indigenous issues. These initiatives include:

- The 2022-2027 Government Action Plan for the Social and Cultural Wellness of the First Nations and Inuit;<sup>7</sup>
- Passage and implementation of the Act to authorize the communication of personal information to the families of Indigenous children who went missing or died after being admitted to an institution,<sup>8</sup> assented to on June 4, 2021;
- Visits of the 55 Indigenous communities in Québec by the Minister responsible for Relations with the First Nations and the Inuit in 2021 and 2022.

Implementation of the Viens Commission's calls for action is only part of the work of government departments and agencies on Indigenous issues. In fact, the government's vision of and commitment to First Nations and Inuit are spelled out more specifically in the 2022-2027 FNI Action Plan, including its intentions as to follow-up on inquiry commissions. In the Plan, the government hearkens back to the importance for the government "[...] to take a flexible approach, working with Indigenous communities, in order to adapt its actions to the specific realities of each group with which it works."<sup>9</sup> **It needs to be emphasized that this follow-up report is not an overall assessment**

6 The Québec Ombudsman's mandate only concerns follow-up on the Viens Commission, and not on the Truth and Reconciliation Commission (TRC) or on NIMMIWG.

7 Secrétariat aux relations avec les Premières Nations et les Inuit. *Together for Future Generations. 2022-2027 - Government Action Plan for the Social and Cultural Wellness of the First Nations and Inuit*. June 2022. [Hereinafter "2022-2027 FNI Action Plan"].

8 *Act to authorize the communication of personal information to the families of Indigenous children who went missing or died after being admitted to an institution*, CQLR c. C-37.4.

9 2022-2027 FNI Action Plan, cited above, footnote 7, p. 5.

## of Government of Québec actions with respect to files concerning First Nations and Inuit.

### Overview of pivotal events in recent years

Several circumstances and events since tabling of the Viens Commission report, such as the COVID-19 pandemic, have transformed some of the realities of the sectors concerned. These must be considered if an assessment of the calls for action is to be dynamic, flexible, accurate and adapted to the changing realities of First Nations and Inuit.

#### New legislation and legal challenges:

- *The Act respecting First Nations, Inuit and Métis children, youth and families*<sup>10</sup> (commonly called federal Bill C-92), assented to on June 21, 2019, and Québec's decision to contest before the Supreme Court of Canada the Court of Appeal judgment in the *Reference to the Court of Appeal of Québec in relation with the Act respecting First Nations, Inuit and Métis children, youth and families*;<sup>11</sup>
- The Act to amend the Youth Protection Act and other legislative provisions,<sup>12</sup> assented to on April 26, 2022;
- *The Act respecting French, the official and common language of Québec*,<sup>13</sup> assented to on June 1, 2022, and the application for judicial review from the Chiefs of the Assembly of First Nations Québec-Labrador (AFNQL) and the First Nations Education Council (FNEC) filed on April 20, 2023;<sup>14</sup>
- The Court of Appeal judgment in *Takuhikan v. Attorney General of Québec*<sup>15</sup> and Québec's decision to contest the Court of Appeal judgment before the Supreme Court of Canada.<sup>16</sup>

#### Pivotal events for First Nations and Inuit:

- The death of Joyce Echaquan, on September 28, 2020, followed by presentation of *Joyce's Principle*<sup>17</sup> by the Council of the Atikamekw of Manawan and the Conseil de la Nation Atikamekw, followed by the investigation report by coroner Géhane Kamel on Ms. Echaquan's death;<sup>18</sup>
- Identification of the unmarked graves of children who died in residential schools in Western Canada and the ensuing questions on possible undeclared deaths and the presence of unmarked graves in Québec.

#### New findings related to the issues raised by the Viens Commission:

- The report of the National Inquiry into Missing and Murdered Indigenous Women and Girls (NIMMIWG)<sup>19</sup>, published June 3, 2019;
- The report of the Special Commission on the Rights of the Child and Youth Protection (SCRCYP),<sup>20</sup> tabled in April 2021;
- The Report on the Situation of the Itinerant Court in Nunavik by Me Jean-Claude Latraverse,<sup>21</sup> tabled in August 2022;
- The research report titled Free and informed consent and imposed sterilizations among First Nations and Inuit women in Quebec<sup>22</sup> in November 2022.

10 *An Act respecting First Nations, Inuit and Métis children, youth and families*, S.C. 2019, c. 24. [Hereinafter "C-92 Federal Act"].

11 *Reference to the Court of appeal of Québec in relation to the Act respecting First Nations, Inuit and Métis children, youth and families*, 2022 QCCA 185.

12 National Assembly of Québec. *An Act to amend the Youth Protection Act and other legislative provisions*, SQ 2022, c. 11.

13 National Assembly of Québec. *An Act respecting French, the official and common language of Québec*, SQ 2022, c. 14.

14 AFNQL. *An Act respecting French, the official and common language of Québec: Filing of an Application Today for a Judicial Review to Uphold the Ancestral Rights of First Nations in Education*, [press release], April 20, 2023.

15 *Takuhikan v. Procureur général du Québec*, 2022 QCCA 1699.

16 *Attorney General of Québec v. Pekuakamiulnuatsh Takuhikan*. Application for leave to appeal, February 13, 2023.

17 Council of the Atikamekw of Manawan and the Council de la Nation Atikamekw. *Joyce's Principle*, [Brief presented to the Government of Canada and to the Government of Québec], November 2020.

18 KAMEL, Géhane. *POUR la protection de LA VIE humaine concernant le décès de Joyce Echaquan 2020-0075*, [Investigation report. *An Act respecting the investigation of the causes and circumstances of death*], Bureau du coroner, 2020.

19 NIMMIWG. *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, 2019, (vol. 1a and vol. 1b). See also: *Idem. Reclaiming Power and Place: a Supplementary Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, (vol. 2), 2020.

20 LAURENT, Régine (Chair). *Instaurer une société accueillante pour nos enfants et nos jeunes*, [report of the Special Commission on the Rights of the Child and Youth Protection], April 2021. [in French only]. [Hereinafter "Final Laurent report (2021)"].

21 LATRAVERSE, Jean-Claude. *Report on the Situation of the Itinerant Court in Nunavik*, August 2022.

22 BASILE, Suzy & BOUCHARD, Patricia. *Free and informed consent and imposed sterilizations among First Nations and Inuit women in Quebec*, [research report], CSSSPNQL, 2022.





# 1 OBJECTIVES AND METHODOLOGY

**This report by the Québec Ombudsman has three objectives:**

**1. Present an overall picture of the status of the measures taken**, mainly by Government of Québec organizations, in order to follow-up on the Viens Commission report. To do this, the Québec Ombudsman has identified the initiatives undertaken in the various public sectors in response to the report's findings and calls for action. To a certain extent, this exercise also provides an updated look at relations between the public services concerned and First Nations and Inuit.

**2. Create and develop relationships of trust** with First Nations and Inuit partners and public organizations alike, a prerequisite for rigorous follow-up. Hearing the perspective of government departments and agencies as much as that of the various Indigenous organizations on the measures for implementing the calls for action enabled the most complete view possible of a given situation. This approach is the very basis for an impartial and independent assessment. An Advisory Circle of First Nations and Inuit organizations with diverse viewpoints was therefore formed. The Québec Ombudsman also saw to strengthening ties with various government departments and agencies in the context of a mandate different from its usual one. By virtue of this new role, it also forged ties with organizations which are not within its regular scope, such as police services and postsecondary educational institutions.

**3. Contribute to improving public service quality and accessibility** as well as respect for the rights of the people who use the services. To do this, the Québec Ombudsman took the specific realities, needs and rights of First Nations and Inuit into account.

## Guidelines for the report

The purpose of this first report is to broadly determine how follow-up to the Viens Commission's calls for action is faring. The procedure consisted of amassing an extensive body of information, by means of written questionnaires and discussions held between June 2022 and June 2023, about progress on the measures by government departments and agencies to which the calls for action apply. For this first synthesis, it was therefore not possible to engage in the same exercise for the effects of government measures on specific organizations, communities, nations or regions. A methodology for delving deeper into regional realities and the distinct characteristics of certain Nations could be developed in the future.

## Confidentiality

The Québec Ombudsman assured interviewees and questionnaire respondents that their statements would remain confidential. Testimonies were therefore anonymized. Even though one anonymous individual may be credited with a statement, it can be extrapolated to several individuals. With an eye to synthesis and conciseness, the Québec Ombudsman chose to present the statements this way to avoid overlap or itemizing.

## Analytical framework

The Québec Ombudsman devised an analytical framework that makes it possible to assess the implementation of the calls for action until they are fully achieved. This methodology was presented to the government departments and agencies concerned, as well as to the Indigenous Advisory Circle.

The analytical framework was created based on the ministerial decree and the general findings of the Viens Commission. These cornerstones define the intentions and objectives for improving relations between Indigenous peoples and public services.

The decree instituting the Viens Commission states that the government wishes to identify "[...] the underlying causes behind any form of violence, systemic discrimination or differential treatments"<sup>23</sup> and that the recommendations must concern "[...] concrete, effective and sustainable measures [...] to prevent or eliminate [...] any form of violence or discriminatory practices or differential treatments in the provision of [...] public services"<sup>24</sup> towards Indigenous peoples in Québec.

In keeping with the government mandate entrusted to CERP and the findings from this public inquiry, the Québec Ombudsman's follow-up must make these elements part of its analysis. Furthermore, the Québec Ombudsman acknowledges the principles advocated in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP,<sup>25</sup> endorsed by Canada in 2010), and according to which Indigenous Peoples have specific rights.

### **The Viens Commission's main finding: systemic discrimination is present**

Having completed its public inquiry, CERP confirmed that First Nations and Inuit were victims of systemic discrimination<sup>26</sup> in their relations with public services.<sup>27</sup>

To situate its 142 calls for action, the Commission highlights four key principles which it feels are likely to lead to the desired reconciliation and progress:

1. Recognize the special status of First Nations and Inuit;
2. Promote self-determination;
3. Take concerted, systemic action;
4. Act early.<sup>28</sup>

Taking its cue from the Viens Commission, the Québec Ombudsman's follow-up assessment is intended to verify whether the actions taken will make it possible to eliminate sources of systemic discrimination, in accordance with the findings and the four key principles set out by the Viens Commission.

In keeping with the intent of the report, the Québec Ombudsman believes that it is important to focus on the qualitative aspect of the planned measures and how they fit into re-establishing a relationship of trust between First Nations and Inuit and Québec's public services. This means that the calls for action should not be seen as a simple checklist. This approach is also the one advocated by Québec government authorities.

Furthermore, the Québec Ombudsman believes that implementing the Viens Commission's calls for action must be seen as a collective responsibility, a societal project, and in this

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23 Decree 1095-2016, cited above footnote 1, pp. 2-3.

24 *Loc. cit.*

25 United Nations. Resolution 61/295 by the General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples*, A/61/L.67 and Add. 1,13 September 2007. [Hereinafter "UNDRIP (2007)"].

26 Systemic discrimination is described as cumulative direct discrimination (differential treatment based on bias and prejudice) and indirect discrimination (the adverse effects of seemingly neutral measures). "Systemic discrimination can impede individuals throughout their entire lives and its effects can persist over multiple generations." Source: CERP Final Report (2019), cited above, footnote 3, p. 203.

27 *Ibid.*, p. 203.

28 *Ibid.*, pp. 214-216.

regard, it invites all Quebecers to improve public services in collaboration with First Nations and Inuit.

## A four-part analysis

In this report, analyses results are presented in the following order:

**1. An analysis of the initiatives and resources deployed in connection with the cross-disciplinary calls for action.** Section 2 presents the various findings drawn from analyzing the actions taken by government departments and agencies in response to the cross-disciplinary calls for action.

**2. A sectoral analysis of the initiatives and resources deployed by the various public services covered by the Viens Commission.** Section 3 presents the various findings drawn from analyzing each of the public services covered by the Viens Commission (police services, justice services, correctional services, health and social services, youth protection services).

**3. An overall analysis.** Section 4 summarizes the findings of this first follow-up report. It provides a broad overview of the road travelled and the distance still to go to reform relations between First Nations and Inuit and the Québec public services covered by the Viens Commission.

**4. A summary table of the analyses, by call for action.** The table in Appendix 2 provides a review of the initiatives undertaken for each call for action in order to assess their progress to date.<sup>29</sup> For a snapshot of the Québec Ombudsman's assessment, a colour code and an assessment rating accompany this analysis.

For each of these sections, both the wording and the intent behind the calls for action were considered.

## Indigenous Advisory Circle

The current follow-up work is being carried out in collaboration with an Advisory Circle made up of representatives of First Nations and Inuit organizations working in the areas covered by the Viens Commission. Its mandate is to advise the Québec Ombudsman's team and provide feedback about assessment of the follow-up to calls for action. The process of establishing the relevant facts cannot be considered rigorous without Indigenous input. This collaboration makes it possible to verify whether the analyses and work carried out by the Québec Ombudsman are consistent with Indigenous perspectives and realities.

Respect, collaboration, transparency and openness underpin the Advisory Circle. The people who participate do so as volunteers.

The Advisory Circle consists of representatives of the following organizations:

- First Nations of Québec and Labrador Health and Social Services Commission (FNQLHSC);
- Assembly of First Nations Québec-Labrador (AFNQL);
- Regroupement des centres d'amitié autochtones du Québec (RCAAQ);
- Cree Nation Government;

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<sup>29</sup> As mentioned earlier, some calls for action require more effort, resources and time in order to be implemented. The Québec Ombudsman has adjusted its assessment accordingly.



- Quebec Native Women (QNW);
- Native Para-Judicial Services of Quebec (NPJSQ);
- Makivvik Corporation;
- Kativik Regional Government (KRG).

Other organizations have been asked to contribute on an ad hoc basis.

In concrete terms, meetings have been held and sub-committees formed to discuss the various public services in greater depth. This information covers both the progress generated by the calls for action and the obstacles to their implementation. The opinions shared in the Circle do not, however, represent those of all First Nations and Inuit communities and organizations.

### The Québec government's position on CERP's calls for action

It is important to note that all the government bodies surveyed welcomed the Viens Commission's report and calls for action. In fact, in September 2021, when it released a public report on its two years of work following the tabling of the Viens Commission's report, the Québec government acknowledged "[...] the need to energetically move forward."<sup>30</sup> For his part, the Minister Responsible for Relations with the First Nations and the Inuit stated that the Viens Commission's calls for action "[...] will continue to guide government action in the coming years."<sup>31</sup> [Our translation].

It is also bears noting that an exercise to prioritize CERP and NIMMIWG calls for action with First Nations and Inuit political representatives and several Indigenous community organizations was attempted on October 17, 2019, and January 27, 2020, at the initiative of the then Minister responsible for Aboriginal Affairs. According to the information available, this exercise proved inconclusive. Faced with this situation, SRPNI's prioritization was aimed at proffering the most promising measures, those identified by the Indigenous communities as being the most important as well as the measures that are the easiest to implement quickly. As a result, the priorities identified by the government do not necessarily coincide with those in the Commission's report.<sup>32</sup> In 2020, to quickly fund actions deemed priorities, the government earmarked a budget of \$200 million over five years for implementing the recommendations of various commissions of enquiry concerning First Nations and Inuit.<sup>33</sup> Follow-up tables on the Viens Commission's calls for action are published annually by SRPNI. The Québec Ombudsman encourages this practice.

In addition, CERP's follow-up work has highlighted certain obstacles to the implementation of the calls for action. More specifically, SRPNI and the main departments report having to deal with lack of precision in some of the Viens Commission's calls for action. Similarly, it is said that, in some cases, the wording does not always take into account departmental realities or the constraints associated with the division of constitutional powers, which, as SRPNI sees it, poses numerous implementation problems. There was also a question of the budgetary framework, which requires that departments follow certain rules before deciding whether new programs should be made permanent. Finally,

30 Office of the Minister Responsible for Relations with the First Nations and the Inuit. The Viens Commission's recommendations - Québec takes stock of the measures adopted to enhance public services for the Indigenous peoples, [press release], September 17, 2021.

31 Gouvernement du Québec. *Progress report of the commission Viens, September 2021*, [in French only] 2021.

32 In its final report, the Viens Commission identified calls for action as priorities by qualifying them as such, or by indicating that their implementation was urgent or that they were priority issues. These calls for action are marked with an asterisk in the table in Appendix 2.

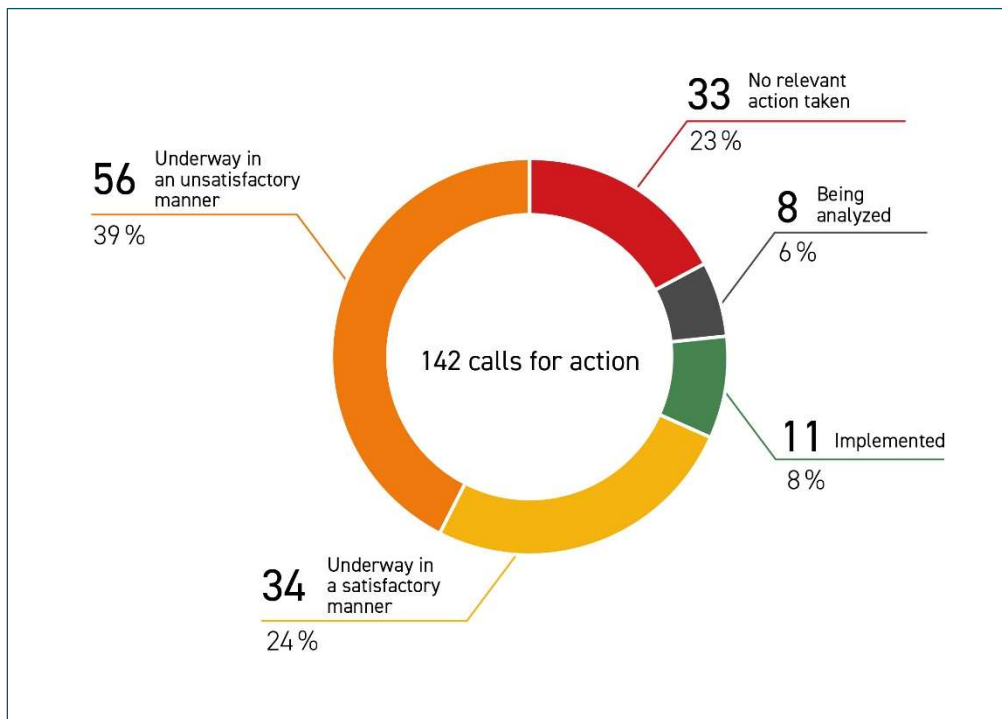
33 It is not possible to determine the exact proportion of the funding earmarked exclusively for follow-up on the Viens Commission.

according to several departments, some of the changes requested by the calls for action are difficult to measure or are unrealistic, which makes them quite complex to implement.

Despite these challenges, the Québec Ombudsman notes that a number of actions have been taken in all the departments covered by the report, and that the measures underway have produced results. This first follow-up report provides an idea of how far we have come and how far we still have to go to achieve profound, sustainable reform of relations between First Nations and Inuit and public services.

The Québec Ombudsman uses a **five-colour coding system**. It illustrates the assessment of how implementation was faring at the time this report was written. In the graph below, the colour code indicates the progress made regarding all the calls for action. Appendix 2 uses this same code for each of the 142 calls for action.

**Graph 1: Progress in implementing the 142 calls for action**





## 2 FOLLOW-UP ON THE CROSS-DISCIPLINARY CALLS FOR ACTION

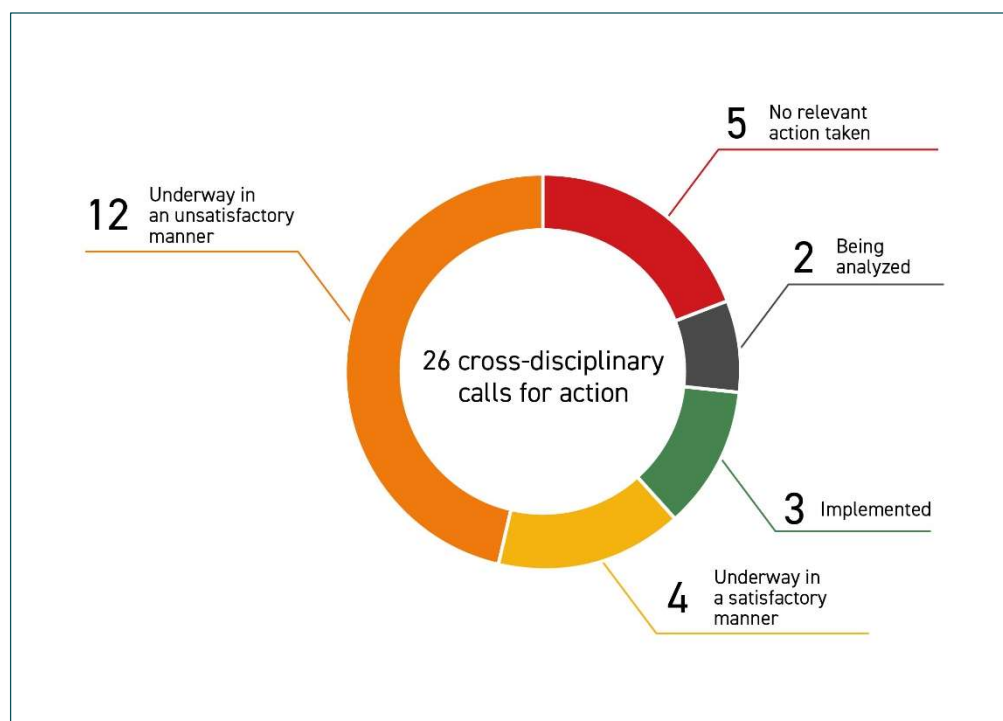
The Viens Commission report includes a section for cross-disciplinary calls for action.<sup>34</sup> They:

- Present "a consistent set of measures that will mutually reinforce each other as they are implemented;"
- "Have grown out of findings common to all public services;"
- Are "a starting point for a process of profound change aimed primarily at "rebuild[ing] relationships of trust with Indigenous peoples;"
- Are fundamental in that they must be carried out prior to the other interventions, or at least in parallel, in order to reinforce their effect with a view to achieving the expected results.

## 2.1 Interventions concerning all public services (Calls for Action Nos. 1 to 26)

Cross-disciplinary calls for action therefore involve various public services. SRPNI is primarily responsible for implementing them.

Graph 2: Progress in implementing the cross-disciplinary calls for action



34. CERP Final Report (2019), cited above, footnote 3, p. 216.

Of the 26 cross-disciplinary calls for action, only three were deemed completed. These were:

- Calls for Action Nos. 1 and 2, calling for major symbolic interventions, namely, official apologies and adoption of motions to recognize and implement the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP);
- Call for Action No. 24, calling on professional orders to raise awareness of the importance of training their members on the realities of First Nations and Inuit.

In addition to these three calls for action, the **four calls for action for which follow-up has been satisfactory** are:

- Call for Action No. 11, concerning measures to support school retention and the educational success of Indigenous students and children;
- Call for Action No. 20, concerning the public information campaign on Québec's Indigenous peoples;
- Calls for Action Nos. 25 and 26, aimed at making training (initial, ongoing and recurrent) available to all managers, professionals and employees likely to be in contact with Indigenous peoples and working in public services, with a view to promoting cultural sensitivity, competence and safety.

However, most cross-disciplinary calls for action have not led to any satisfactory results to date. In what follows, the Québec Ombudsman presents the results of its analyses in the form of six observations intended for the entire Québec government apparatus.

## **ENGAGE IN A PROCESS WITH INDIGENOUS REPRESENTATIVES TO ENSHRINE UNDRIP WITHIN QUÉBEC'S LEGISLATIVE FRAMEWORK**

One of the objectives of the cross-disciplinary calls for action is the importance of recognizing past mistakes in order to lay the groundwork for fruitful collaboration in the future.<sup>35</sup> In this regard, the Government of Québec has addressed certain calls for action by means of significant and promising public speeches.

### **EXAMPLES:**

- The Premier of Québec's public apologies<sup>36</sup> in October 2019 about the Québec government's failings towards First Nations and Inuit.
- The motions adopted by the National Assembly in October 2019 concerning the need to agree on the definitions of the provisions and principles of UNDRIP in order to produce and adopt the required legislative amendments.<sup>37</sup>

However, these highly symbolic gestures are slow to take on a more concrete and binding form for the government as a whole, as would be possible if Call for Action No. 3 were implemented. In fact, the latter recommends drafting a law to implement UNDRIP in

35 *Ibid.*, "6.3.1 Acknowledging our mistakes", pp. 216–217.

36 National Assembly of Québec. "Publication du rapport de la Commission d'enquête sur les relations entre les Autochtones et certains services publics" in the *Journal des débats*, October 2, 2019.

37 Motions of the National Assembly: *Prendre acte des conclusions de la commission Viens et demander au gouvernement de reconnaître les principes et de s'engager à négocier la mise en œuvre de la Déclaration des Nations unies sur les droits des peuples autochtones avec les Premières Nations et les Inuits* (4523–6, October 2019) and *Demander au premier ministre de s'entendre dans les meilleurs délais avec les autorités autochtones sur les définitions des dispositions et des principes de la Déclaration des Nations unies sur les droits des peuples autochtones afin d'élaborer et d'adopter les modifications législatives nécessaires* (8813–6, October 2020).

order to enshrine in Québec legislation the range of individual and collective rights of Indigenous Peoples recognized in the Declaration, such as:

- The right to self-determination (article 3);
- The right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State (article 5);
- The right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures (article 13);
- The right to all levels and forms of education of the State without discrimination (article 14.2);
- An equal right to the enjoyment of the highest attainable standard of physical and mental health (article 24).

One of the effects of a law to implement UNDRIP would be to strengthen existing instruments in order to ensure that these rights are upheld. For example, under article 19 of the Declaration, "States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them." At the time this report was being written, the Government of Québec was still not obliged to take the full breadth of the rights recognized under UNDRIP into account when it drafts its bills, policies, and action plans, even if they may have consequences for First Nations and Inuit. However, it bears remembering that Canada endorsed UNDRIP in November 2010 and adopted its federal implementing act, the *United Nations Declaration on the Rights of Indigenous Peoples Act*.<sup>38</sup>

**As the Québec Ombudsman sees it, the Viens Commission report places the Declaration at the top of the list of calls for action for one simple reason: it is the bedrock for any attempt at reconciliation, collaboration, rights-recognition and co-construction with First Nations and Inuit.** In that respect, it invites the Government of Québec to engage with all Indigenous representatives in a process to implement Call for Action No. 3, with a view to laying the groundwork for fruitful collaboration in all public service sectors.

### **ESTABLISH A CLEAR PORTRAIT OF FIRST NATIONS AND INUIT REALITIES BY COLLECTING AND ANALYZING RELIABLE ETHNO-CULTURAL DATA**

The Viens Commission describes "[...] collecting ethno-cultural data [as] an essential tool in the fight against discrimination and systemic racism."<sup>39</sup> CERP discovered that major information gaps hindered the efficiency of action by government departments. These shortcomings translate into persistent difficulties in giving shape to policies, programs and measures aimed at resolving the inequalities experienced by First Nations and Inuit based on their needs and realities, regardless of whether or not they live in communities covered by an agreement, or in urban areas.

However, the Québec government has shown no real intention of integrating the collection of ethno-cultural data into the operations, accountability and decision-making of public sector organizations in a concerted manner. SRPNI believes that government-wide ethno-cultural data collection would involve financial and organizational efforts that would be disproportionate to the benefits. In addition, SRPNI maintains that the limitations in terms of information technology, training and human resources are prohibitive. By this

<sup>38</sup> *United Nations Declaration on the Rights of Indigenous Peoples Act*, S.C. 2021, c. 14.

<sup>39</sup> CERP Final Report (2019), cited above, footnote 3, p. 225.

it means that they prevent such collection from being implemented in practice, and that legal issues could make the whole thing problematic. For its part, the Ministère de la Santé et des Services sociaux (MSSS) cites the multitude of computer systems involved in the call for action and the "lack of reliability" resulting from self-declaration as barriers to its implementation. However, resolving of a number of issues underlying many calls for action depends on access to and availability of such data.

#### **EXAMPLES:**

- MSSS does not have exhaustive data on the number of First Nations and Inuit children under youth protection in urban areas. This information gap hinders our understanding of the problem of the over-representation of Indigenous children in Québec's youth protection system. This in turn prevents services from being improved so that they are better adapted to the realities of First Nations and Inuit families and children.
- The Ministère de L'Éducation (MEQ) does not collect any data on the ethnic origin of pupils and students in the province's public schools and educational institutions. As a result, it has no vision (provincial, regional or local) of the specific needs and issues facing First Nations and Inuit students. This lack of data means that the initiatives and resources deployed in the area of student retention run the risk of missing their target and that their evaluation is destined to remain approximate.

Furthermore, any consideration of the collection of ethno-cultural data must take into account the ethical issues specific to the Indigenous context. For the time being, the Québec Ombudsman is not able to know whether the various departments wish to turn the recognition of Indigenous governance principles regarding data concerning them into concrete plans or initiatives.<sup>40</sup> Indeed, even when ethno-cultural data collection is undertaken on a smaller scale, the issues of data use and access for the benefit of First Nations and Inuit are rarely considered, which makes it difficult for communities to improve their knowledge of their realities.

In short, although departments and agencies have the capacity to collect data on their own, lack of government guidelines and ethical reflection carried out in close collaboration with First Nations and Inuit authorities prevents optimal use of these data, contrary to what is required in Calls for Action Nos. 4, 5 and 6. The Québec Ombudsman therefore encourages work aimed at modifying current information systems. It stresses the importance of collaborating with the First Nations and Inuit authorities concerned so that the solutions that are implemented meet the needs of Indigenous service providers, whether they work on territories covered by an agreement, communities not covered by an agreement, or in urban areas.

### **ADDRESS THE HOUSING ISSUE AS A MATTER OF URGENCY**

From the outset of the Commission's work, housing emerged as "the epicentre of many of the issues faced by the First Nations and Inuit."<sup>41</sup> It therefore comes as no surprise that the Viens report states that "genuine change [is] impossible without taking into account the cause-and-effect relationship between Indigenous peoples' living conditions and their

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<sup>40</sup> First Nations Information Governance Centre. *A First Nations Data Governance Strategy*, FNIGC, 2020.

<sup>41</sup> CERP Final Report (2019), cited above footnote 3, p. 230.

needs with regard to public services."<sup>42</sup> The expected changes involve meeting the need for safe housing for First Nations and Inuit, regardless of where they live.

However, the information collected by the Québec Ombudsman does not show that housing is a priority, or even worse, an emergency, for the Québec government, particularly for the communities not covered by an agreement. In fact, the constitutional framework defining the division of responsibilities between the federal and provincial governments regarding housing continues to hamper the implementation of solutions, even though a portrait of the situation explaining the extent of the needs exists.<sup>43</sup>

#### EXAMPLE:

According to its latest update (2018), AFNQL reports that the demand for new housing is three times greater than observed housing starts. In fact, there is need for "[...] 10,435 additional units within 15 years [...]. At the current rate of some 230 homes per year, the gap continues to widen, with no light at the end of the tunnel."<sup>44</sup> In short, the estimated need over 15 years (the equivalent of 696 units per year) represents three times what is built annually.

Regarding Nunavik, investments are still insufficient to meet the needs of families and to reduce overcrowding and its consequences. Inuit representatives believe that part of the problem lies in the choice of program template historically favoured by the Québec government, which was modelled on the province's social housing program. According to these representatives, this approach would not make it possible to develop a strategy that would provide a sustainable response to present and future Inuit needs.

Nonetheless, the Québec Ombudsman welcomes the investments and the construction of housing that benefit in particular members of First Nations and Inuit who have great difficulty finding adequate and affordable housing in urban areas. However, **the scale of the situation and the central role that housing plays in determining health require more structured measures and interventions.** Consequently, the Québec government must prioritize measures that meet the intent of the calls for action concerning housing for the whole of Québec.

### WORK WITH INDIGENOUS AUTHORITIES TO DEVELOP A STRATEGY TO PROTECT AND PROMOTE FIRST NATIONS AND INUIT LANGUAGE RIGHTS

To date, there is no overall plan to ensure the uniform and concerted implementation of calls for action on language and initiatives relating to translation, interpretation and signage in public services.

Although work in some areas is proactive, initiatives remain limited and are not always in line with the priorities of the Indigenous communities concerned. More often than not, the authorities wait for First Nations and Inuit to make their own requests for translation and interpretation.

The Ministère de la Langue Française (MLF) has not yet established direct collaboration with First Nations and Inuit representatives. For the time being, it relies on SRPNI for

<sup>42</sup> *Ibid.*, p. 234.

<sup>43</sup> AFNQL. *The Housing Needs of First Nations in Quebec and Labrador (2000, 2006, 2012 et 2018)*.

<sup>44</sup> As reported in: First Nations of Quebec and Labrador Economic Development Commission. *Paving the way for a new way of securing funding for a range of First Nations housing solutions – Axis 2 of the Regional Housing and Infrastructure Strategy – 2020*, [report presented to the Regional Tripartite Housing Committee], June 2020, p. 8.



guidance. For its part, SRPNI states that it works with the departments and encourages them to devote the resources and make the necessary efforts to meet the linguistic needs of the First Nations and Inuit communities in their region. However, it does not exercise leadership in this area and stresses that government bodies must respect the *Charter of the French Language*. The Québec Ombudsman also questions the realism of Call for Action No. 16 regarding translation, given the cost-benefit ratio. First Nations and Inuit representatives confirmed that the language issues identified by the Viens Commission persist in all the public services in question. Indeed, significant lack of sensitivity and consideration were reported during this follow-up. Be that as it may, language is a major source of discrimination for First Nations and Inuit in Québec, as identified by CERP.<sup>45</sup>

#### EXAMPLES:

- First Nations and Inuit youth have been forbidden to speak their language in rehabilitation centres for young people with difficulties outside their territory.<sup>46</sup> Yet, this problem had been denounced by the Commission des droits de la personne et des droits de la jeunesse (CDPDJ),<sup>47</sup> the Viens Commission and the Special Commission on the Rights of the Child and Youth Protection (Laurent Commission).
- MEQ has created an "Office of Eligibility for Education in English" for any student wishing to study in English at the college level. However, the department continues to exhibit a lack of understanding of First Nations' right to self-government, of language rights stemming from inherent rights, and of s. 35.1 of the Constitution Act, 1982, supported by s.6 of the federal government's *Indigenous Languages Act*. This lack of knowledge means that First Nations and Inuit students are faced with complex procedures, delays and unilateral decisions by MEQ. These obstacles prevent them from exercising their language rights.

The language aspect of access to public services is an essential element to consider in implementing a culturally safe slate of services. Several Québec government representatives said they were sensitive to this issue but mentioned that Québec's legislative framework limits their ability to act. The Québec Ombudsman would nevertheless like to salute public service initiatives, such as bilingual and trilingual signage in certain court-houses, in the offices of the Centres d'aide aux victimes d'actes criminels (CAVAC) and in certain Sûreté du Québec (SQ) police stations.

The changes made to the *Charter of the French Language* by the *Act respecting French, the official and common language of Québec*, although dealing with the defence of the French language, were a missed opportunity for the government to respond to First Nations and Inuit concerns regarding their access to public services, to protect Indigenous languages and to contribute to implementing the Viens Commission's calls for action concerning language. Although the government's language policy<sup>48</sup> states that it "does not contradict the right of the First Nations and Inuit of Québec to maintain and protect their language and culture of origin" [our translation], no work has been done to assess the effects that the amendments to the *Charter of the French Language* will have on these

45 CERP Final Report (2019), cited above footnote 3, p. 230.

46 See: JOSSELIN, Marie-Laure. "La Commission des droits de la personne enquête sur le traitement d'un jeune Inuk," *Radio-Canada*, October 7, 2022; BORDELEAU, Jean-Louis, "Des jeunes Inuits interdits de parler l'inuktitut," *Le Devoir*, May 19, 2021; and AMBROISE, Sylvie. "Plusieurs innus disent que la langue innue est interdite au Pavillon Richelieu," *APTN News*, April 6, 2021.

47 CDPDJ. *Investigation into the situation of Inuit children under the residential care of the CIUSSS-de-l'Ouest-de-l'Île-de-Montréal and the Ungava Tulattavik Health Centre - Summary*, May 19, 2021.

48 Ministère de la Langue française. *Politique linguistique de l'État*, [in French only], March 2023.

citizens. For example, young students from communities not covered by an agreement and in urban areas must comply with section 84 of the *Charter of the French Language* and pass the standardized French test in order to obtain their secondary school diploma and thus gain access to post-secondary education. This is a major obstacle to academic success for young Indigenous people for whom French is a second or even a third language.

Furthermore, the Québec Ombudsman noted a lack of consultation prior to the tabling of Bill 96, *Act respecting French, the official and common language of Québec*, despite numerous requests to this effect from Indigenous representatives. It has also seen that the recommendations stemming from briefs during special consultations on the Bill, including that of the Québec Ombudsman,<sup>49</sup> were not included. This shows that the government is not listening and is not taking First Nations and Inuit language rights into account.<sup>50</sup>

On April 20, 2023, the Chiefs of the Assembly of First Nations of Québec-Labrador (AFNQL) and the First Nations Education Council (FNEC) filed an appeal for judicial review to declare certain provisions of the *Charter of the French Language* unconstitutional because they infringe on Indigenous ancestral rights. For its part, the Québec government is considering adopting specific legislation on Indigenous languages. In anticipation of this, the Minister Responsible for Relations with the First Nations and the Inuit held four dialogue meetings in the spring of 2023 on protecting, promoting and revitalizing Indigenous languages in various regions of Québec. A number of Indigenous representatives are critical of these initiatives, believing that they run counter to their linguistic autonomy and their ability to create legislation.

At the time this report was being written, a draft regulation had been published on French-language proficiency requirements for the issuance of an attestation of college studies, as well as a draft regulation authorizing the Minister of Higher Education, Research, Science and Technology to make exceptions in applying section 88.0.17 of the *Charter of the French Language*, with a view to promoting the success of First Nations and Inuit students at the college level. However, the sections concerning the draft regulations are part of the requests for invalidation in the appeal for judicial review filed by AFNQL and FNEC. The Québec Ombudsman will continue to monitor the situation closely.

As mentioned in the final report of the Viens Commission, "[...] after territory, language is a leading identity factor."<sup>51</sup> The effort, time and resources that First Nations and Inuit in Québec expend to adapt to existing legal standards could be invested in their own culture instead. The Québec government must therefore work closely with First Nations and Inuit and adopt a concrete strategy to develop, promote and preserve Indigenous languages, as set out in the 2022-2027 FNI Action Plan and in the context of the United Nations' International Decade of Indigenous Languages.<sup>52</sup>

## **BASE ADVANCES IN EDUCATION ON A STRATEGIC VISION**

To evaluate the implementation of the calls for action affecting the education sector, the Québec Ombudsman obtained input from Indigenous organizations and government departments working specifically in this field. The Québec Ombudsman also consulted the Fédération des cégeps, the Réseau de l'Université du Québec and other Québec universities.

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49 Québec Ombudsman. *Mémoire du Protecteur du citoyen adressé à la Commission de la culture et de l'éducation dans le cadre des consultations particulières sur le projet de loi n° 96 – Loi sur la langue officielle et commune du Québec, le français*, [In French only], October 7, 2021.

50 These linguistic rights are recognized in particular in UNDRIP (2007) [cited above, footnote 25] and in the *Indigenous Languages Act*, S.C. 2019, c. 23.

51 CERP Final Report (2019), cited above, footnote 3, p. 108.

52 On this subject, see: UNESCO. *2022-2032 – International Decade of Indigenous Languages*, [website]. The Canadian government has acknowledged that this initiative is relevant.

Since the Viens Commission's report was tabled, the Québec government has made financial investments in education, notably as part of the "J'ai espoir" initiative and the 2022-2027 FNI Action Plan. Among other things, this translated into \$18.4 million granted to MES and nearly \$25 million for MEQ. To enhance the support program for members of Indigenous communities, MES was also granted funding of \$45.7 million in the 2022-2023 Budget. These two departments also fund projects from their own budgets.

However, there are no guidelines for the various initiatives undertaken by the departments involved. In this respect, MES, MEQ and SRPNI have undertaken various measures and projects that are in line with the call for actions on student retention and educational success for First Nations and Inuit students and children (No.11), without, however, producing a structured implementation plan. With no short-, medium- or long-term objectives, we have to wonder how the impact of these projects will be assessed and how the consequences for students and the Indigenous communities will be measured. Given the scale of the challenges in the field of education, the significant amount of funding, the number of educational establishments involved and the time required to achieve expected results, a strategic work plan is essential. That said, MEQ and MES have confirmed that they will soon be drawing up such a work plan. The Québec Ombudsman encourages them to do so in conjunction with the Indigenous organizations.

Regarding Call for Action No. 23, which asks for a First Nations and Inuit component to be included in college and university courses leading to professional practice, MES does not have an inventory of such courses and programs for all Québec cégeps and universities. Nor is there a work plan or structuring measures for implementing this call for action. However, MES intends to remedy this. Given the many obstacles<sup>53</sup> that make the call for action's implementation problematic, there is a need for Indigenous representatives, the Québec government, professional orders, and universities and colleges to put their heads together to think about their respective responsibilities when it comes to integrating a First Nations and Inuit component into training leading to professional practice.

It should also be noted that MES has just created a Service des relations avec les Premières Nations et les Inuit, while MEQ continues to operate the Table nationale sur la réussite éducative des élèves autochtones and has done so since 2017. These actions, which are helping to improve collaboration, are welcomed by Indigenous representatives. However, they would like the departments to be more respectful of their requests to prioritize issues and of Indigenous self-government in education. They also want the process of jointly amending laws and regulations to lead to the achievement of school success objectives. Finally, they are calling for a review of measures, policies, programs and guidelines deemed detrimental to First Nations and Inuit –such as the recent legislative and regulatory amendments to the *Charter of the French Language* – in order to put an end to the adverse effects they are experiencing.

Despite the government's recent investments, academics who deal in Indigenous issues have criticized the lack of human resources. On the ground, several universities and the Fédération des cégeps want to work with First Nations and Inuit people and organizations, but resources are limited. As a result, the people involved are overstretched. This confirms the importance of engaging the necessary resources for promoting Indigenous students' academic success and of increasing the number of First Nations and Inuit professionals in education and in all other spheres of activity covered by CERP.<sup>54</sup>

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53 Cases in point are institutions' rigid way of operating, faculty members' lack of knowledge about First Nations and Inuit realities, and the absence of prohibiting directives.

54 CERP Final Report (2019), cited above, footnote 3, p. 238.

The Viens Commission showed that massive and ongoing efforts must be deployed in the education sector. If, on the other hand, the government does not move on this front, First Nations and Inuit representation in public service positions will remain scanty.<sup>55</sup>

### **HAVE STRUCTURED PROFESSIONAL DEVELOPMENT PROGRAMS SO THAT MINDSETS AND PRACTICES EVOLVE**

Departments and agencies have undertaken numerous initiatives to train their staff in First Nations and Inuit realities. One example is the seven-hour awareness training module for public service employees set up by SRPNI and MJQ in collaboration with UQAM. There are also specific modules on justice and domestic, family and sexual violence in the Indigenous environment, developed in collaboration with MJQ.

The format, duration and content of these training courses, as well as those offered by other departments and organizations, vary, and are mostly limited to general considerations aimed at raising basic awareness. They are the first step in a continuum of training, ranging from **raising the awareness of all employees, to cultural safety in the organizational practices** of the various public services. As a result, they do not necessarily reflect the specific realities of the Indigenous Nations with whom public sector employees are called upon to work. Moreover, they do not always provide professionals with the tools they need in their areas of expertise, or with knowledge on how to concretely adapt their approaches and interventions when they interact with members of the various Indigenous peoples. Finally, this training is not always offered on an ongoing and recurring basis, as recommended by Call for Action No. 26.

Training is an area in constant flux and much remains to be done to ensure culturally safe services for First Nations and Inuit in the province's various public bodies. It will therefore be important to continue developing more specific training courses. In addition, to contribute effectively to the desired systemic changes, there will also have to be complementary interventions that build on the training within departments, agencies and workplaces.

Finally, in the opinion of the Québec Ombudsman, the training must be:

- Continuously put into practice;
- Updated regularly;
- Evaluated rigorously to quantify the effects;
- Designed with Indigenous experts and practitioners, while giving the process all the time needed;
- Modelled on best continuing education practices.

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55 *Ibid.*, p. 237.



### **3 FOLLOW-UP ON CALLS FOR ACTION, BY PUBLIC SERVICE**

The Viens Commission report includes chapters consisting of calls for action related to the following public sectors: police services, justice, correctional services, health and social services, and youth protection.

Below, the Québec Ombudsman addresses the priority initiatives it deems necessary for implementing the calls for action as described to the departments concerned by these different sectors.

### 3.1 Police services (Calls for Action Nos. 27 to 39)

As already mentioned, CERP was established in the wake of Indigenous women's allegations of physical and sexual abuse and harassment by police officers. The investigation highlighted the "deep feeling of mistrust that Indigenous peoples have towards police services" and determined "that, based on how the system currently operates, there is very little that can rebuild their trust."<sup>56</sup>

The Viens Commission concluded that there was indirect discrimination in the laws, policies and operating rules in force, and stressed the need for action, focusing in particular on the "context for police actions and the factors impeding service quality and unadapted police practices."<sup>57</sup> Its report sets out 13 calls for action in this area.

To evaluate implementation of these calls for action, the Québec Ombudsman used the information received from MSP, the Commissaire à la déontologie policière, the Sûreté du Québec (SQ), the Association des directeurs de police du Québec (ADPQ), the Quebec Association of First Nations and Inuit Police Directors (QAFNIPD), and from the 29 municipal police services and four Indigenous police services that agreed to participate. Indigenous partners involved in public safety-related issues also participated in collecting information. The Québec Ombudsman would like to acknowledge all these organizations' excellent collaboration.

At the time this report was being written, the Québec Ombudsman considered that only one call for action (Call for Action No. 31) had been fully implemented. It proposed that a "complete status report on the state of the infrastructure and equipment available to Indigenous police forces, the wages and the geographic and social realities of the communities they serve" be established.

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<sup>56</sup> CERP Final Report (2019), cited above, footnote 3, p. 255.

<sup>57</sup> *Loc. cit.*

**Graph 3: Progress in implementing calls for action concerning police services**



The most satisfactory actions undertaken concern:

- Reviewing the way training of aspiring Indigenous police officers hired by Indigenous police forces is funded (Call for Action No. 29);
- Setting up mixed intervention patrols for vulnerable persons (Call for Action No. 37);
- The possibility of setting up regional Indigenous police forces (Call for Action No. 28).

Conversely, calls for action that have underperformed concern:

- The availability of regular and continuing education fully accessible in English at the École nationale de police du Québec (ENPQ) (Call for Action No. 30);
- Negotiations with the federal government to change how budget resources are allocated to police forces (Call for Action No. 36);
- Recurring and sustainable funding for all Indigenous police forces (Call for Action No. 35).

Funding and staffing are among the obstacles identified by MSP as hindering implementation of the calls for action. MSP says it is committed to providing services and support to First Nations and Inuit, and to adapting its interventions. However, limited human resources within the organization and within its Indigenous partner organizations make it impossible to meet all demands, despite increased investment.

Moreover, it appears that calls for action that require tripartite negotiations (provincial government - federal government - First Nations and Inuit authorities), as well as those aimed at recognizing greater autonomy for First Nations and Inuit organizations, are more difficult to implement.

## **MSP's response to the Viens Commission report**

As early as July 2017, while the work of the Viens Commission was still underway, the then Deputy Minister of Public Security announced that an administrative unit responsible for playing an advisory role on Indigenous matters to departmental authorities would be created. This was the Bureau des relations avec les Autochtones, now known as the Direction de la coordination ministérielle et des affaires autochtones (DCMAA). This directorate helps to develop MSP's strategic policy thrusts for First Nations and Inuit by proposing concerted measures, courses of action and intervention models aligned with those of its partners. Its aim is to base MSP's action on the realities of the communities, and to reorganize and adapt services to respond more adequately to First Nations and Inuit needs.

As early as the first prioritization exercise after the Viens Commission report was tabled in 2019, the government gave top priority to policing and public safety issues by announcing 15 measures as part of the "J'ai espoir" initiative.<sup>58</sup> This came with more than \$17 million in funding. Other actions were added subsequently. However, MSP sees this as time-limited funding that will need to be sustainable if lasting changes are to be achieved. To follow up on these measures and Indigenous issues in general, in 2021 MSP created a governance structure consisting of committees at three levels:

- The specific committees, made up of the professionals responsible for the measures;
- The technical committee, made up of senior representatives from the various sectors responsible for measures;
- The strategic committee, comprising MSP's Associate Deputy Ministers of Police Affairs and Correctional Services, the Director of ENPQ, SQ's Director General, as well as SRPNI and Commissaire à la déontologie policière representatives.

These committees coordinate Indigenous file follow-up. However, they have no specific work plan for implementing the Viens Commission's calls for action.

MSP has also trained over 2,000 of its staff on Indigenous realities through a six-hour training course offered by SRPNI. This initiative is in response to Calls for Action Nos. 25 and 26.

In addition, four MSP-funded organizations have Indigenous liaison officer positions: the Bureau des enquêtes indépendantes (BEI), the Laboratoire de science judiciaire et de médecine légale, the Commissaire à la déontologie policière and the Commission québécoise des libérations conditionnelles. However, the representatives of these various organizations were not chosen by First Nations and Inuit authorities, as provided for in Call for Action No. 19, but the positions were posted in the media and within Indigenous organizations.

In terms of interdepartmental collaboration, MSP says it is in regular contact with SRPNI to ensure that the measures funded in the FNI Action Plans are implemented. It also points out that DCMAA representatives sit on several committees dealing with public service delivery to First Nations and Inuit. Finally, regular mandatory meetings are held between MSP's Deputy Minister and SRPNI's Associate Secretary General.

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58 2022-2027 FNI Action Plan, cited above, footnote 7, pp. 41-42.



## **SQ initiatives in response to the Viens Commission**

As for SQ, a number of initiatives are underway to contribute to implementing various calls for action. These include:

- Call for Action No. 19 on creating and funding permanent liaison officer positions;
- Calls for Action Nos. 25 and 26 on the training of managers, professionals and employees;
- Call for Action No. 37 on establishing mixed intervention patrols.

The Division des relations avec les communautés autochtones (DRCA) is made up of 12 police officers who act as Indigenous liaison officers, by nation and throughout Québec. Some of them work in urban areas. DRCA coordinates the implementation of mixed police and community intervention teams (EMIPIC). Four of these teams will be supported by an Indigenous civilian liaison officer. Partnerships have also been forged with Indigenous organizations across Québec, although these collaborations are sometimes limited because of staff shortages in these organizations.

Several training courses are being developed or are already offered to staff, including a two-day classroom course offered by the Université du Québec en Abitibi-Témiscamingue's (UQAT) Service Premiers Peuples, DRCA and SQ Legal Services. Police officers who work with or near First Nations and Inuit communities are given priority. Projects to translate documents into Indigenous languages are also underway, albeit sporadically, as there is no centralized bank of translation and interpretation resources. The high cost of external agency services also limits the development of activities.

## **ENSURE COMPREHENSIVE, CONCERTED IMPLEMENTATION OF CALLS FOR ACTION WITHIN MUNICIPAL POLICE DEPARTMENTS**

To date, no municipal police force in Québec has a specific plan for implementing the Viens Commission's calls for action. Nevertheless, some are working in partnership with First Nations and Inuit organizations or communities on various projects, and others have training initiatives.

### **EXAMPLES:**

- The Service de Police de Saguenay has been working in partnership with the Centre d'amitié autochtone de Saguenay (now the Centre Mamik Saguenay) since 2017.
- The Service de police de la Ville de Gatineau works with Indigenous organizations as part of its diversity partners committee. Training initiatives on Indigenous realities and translation of documents into Indigenous languages are slated for 2023.
- Three municipal police forces said they had liaison officers assigned to relations with First Nations and Inuit, in response to Call for Action No. 19.
- Four police services offer specific training on First Nations and Inuit realities, or training components that cover them.
- Four police services are planning to create training courses on the same subjects or are planning to have their staff take the ENPQ course.

In addition, although Indigenous language needs are relatively rare, all municipal police departments use private translation agencies when they need interpretation resources. Several police departments also mentioned that they wanted access to a centralized bank of interpreters, as provided for in Call for Action No. 14.

Three municipal police departments stand out for their interventions and projects involving First Nations and Inuit. They are the Service de police de la Ville de Montréal (SPVM), the Régie intermunicipale de police Thérèse-De Blainville and the Service de police de Trois-Rivières.

#### **EXAMPLES:**

- Collaboration and project agreements, notably with the Indigenous Friendship Centre of Montreal, Makivvik Corporation and Projets autochtones du Québec, as well as the new civilian position of Community Development Advisor in Indigenous Peoples Relations created in May 2022 at SPVM.
- The Régie intermunicipale de police Thérèse-De Blainville's WAMPUM training and immersion project.
- The collaboration and joint training initiatives of the Trois-Rivières Indigenous Friendship Centre and the Indigenous community resource officer of the Service de Police de Trois-Rivières community relations team.

All these police forces have an Indigenous population on their territory or have First Nations communities nearby, hence their interventions and interest. However, the Québec Ombudsman was not able to assess the effects of their initiatives and the satisfaction of the First Nations and Inuit people and organizations concerned.

Certain police services with Indigenous communities nearby or that have a large First Nations and Inuit population on their territory have not undertaken any partnership or initiative in response to the Viens Commission's issues or calls for action.

The Québec Ombudsman therefore sees that initiatives are fragmented because they hinge almost solely on the various municipal police services' interest and good will, not on a concerted desire to implement the Viens Commission's calls for action. Clear policy common to all police services must be adopted. This would make it possible for these organizations to address the calls for action at least to a minimal extent. While respecting municipal police services' autonomy and particular characteristics, MSP and ADPQ could work together to produce such policy and adequate support measures.

### **RECOGNIZE INDIGENOUS POLICE SERVICES AS AUTONOMOUS BODIES AND ESSENTIAL SERVICES**

MSP works with a number of Indigenous partners, including QAFNIPD, whose funding has made it possible to establish a structure to improve support for Indigenous police forces. In addition, a political table and a technical committee on public safety have been set up with AFNQL to enable First Nations representatives to discuss public safety issues directly with MSP's political and administrative authorities. Working relations between MSP representatives and Indigenous partners at this table were described by the latter as respectful and conducive to constructive exchanges. Joint work had even been carried out in the wake of 2021's Bill 18, *Act to amend various provisions relating to public security and to enact the Act to assist in locating missing persons*, which died on the order paper.

However, it must be remembered that Bill 14, *Act to amend various provisions relating to public security and to enact the Act to assist in locating missing persons*, was tabled in 2023 without the First Nations technical committee being consulted beforehand, and without integrating their recommendations concerning the preceding bill (Bill 18). This generated great discontent and the perception that establishing relationships of trust with the Indigenous representatives had regressed. A letter from QAFNIPD commenting on Bill 14 was sent to the Minister of Public Security expressing association representatives' dissatisfaction at not having been invited to a parliamentary committee to discuss the bill, which envisages changes regarding Indigenous police force powers and jurisdictions.

At the heart of the Indigenous representatives' concerns and demands is the question of recognizing Indigenous police services as essential services. Such status would enable them to secure long-term funding, negotiate on an equal footing with other police services and the governments of Québec and Canada, and assert their autonomy. In this regard, the Viens Commission report noted that "the dissatisfaction with the First Nations Policing Policy and the resulting tripartite agreements far exceed all the negative factors identified by Indigenous representatives."<sup>59</sup>

To move forward and return to the path of fruitful collaboration, MSP should consider negotiations with the federal government a priority, with a view to recognizing the status, autonomy and equality of Indigenous police services. Amendment of section 90 of the *Police Act*, as advocated in Call for Action No. 34, is also crucial. Indigenous partners are even calling for more specific legislation that takes the particular characteristics of Indigenous Nations into account.

The recent Québec Court of Appeal decision in *Takuhikan v. the Attorney General of Québec* addresses the issue of recognizing the equality of Indigenous police services.<sup>60</sup> This judgment recalls the "findings of the various commissions of inquiry and studies that have examined the issue of police services on reserves: they have all concluded that these services are inadequate when applied to First Nations, because they are not adapted to their culture and specific needs."<sup>61</sup> Justice Jean Bouchard states that "[...] by refusing to fund the appellant's police force in a manner that would allow for the same quality of service as that provided to non-Indigenous communities [...]"<sup>62</sup> and "by turning a deaf ear to the grievances of the appellant – who, all in all, rather than resorting to the Sûreté du Québec, agreed to be served by a police force of lesser quality – the respondents violated their obligation to act with honour."<sup>63</sup> It should be noted that in February 2023, the Attorney General of Québec brought this judgment for appeal before the Supreme Court. The decision is pending.

Finally, to recognize the autonomy of Indigenous police services and their status as an essential service, other priority factors must be considered in collaborating and negotiating with MSP and the Québec government:

- Difficulties recruiting and retaining qualified Indigenous staff who speak the Indigenous language concerned;
- Lack of housing for police officers in some communities;
- Lack of funding to pay staff competitive salaries;

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59 CERP Final Report (2019), cited above, footnote 3, p. 273.

60 *Takuhikan v. Attorney General of Québec*, cited above, footnote 15, par. 108.

61 *Ibid.*, par. 118.

62 *Ibid.*, par. 118.

63 *Ibid.*, par. 124.

- Mental health issues for police officers;
- Difficult, if not impossible, access to specialized training and continuing education in English.

### PUT INDIGENOUS WOMEN'S SAFETY FIRST

The issue of the safety of First Nations and Inuit women, their right to physical integrity and their right to access and receive public services was a fundamental reason for the Viens Commission and deserves priority attention from police services in Québec. Measures funded under *Actions prioritaires pour contrer la violence conjugale et les féminicides 2021-2026* and the *Integrated Government Strategy to Counteract Sexual Violence, Domestic Violence and to Rebuild Trust 2022-2027* are in line with these priorities.

At the same time, measures in the specific work stream dealing with the issues and challenges facing First Nations and Inuit women in the 2022-2027 FNI Action Plan also aim to help women who are victims of abuse, violence or discrimination. Although this goes beyond monitoring the Viens Commission's calls for action, the Québec Ombudsman considers that a follow-up mechanism for NIMMIWG's calls for justice concerning Québec is essential.

### 3.2 Justice services (Calls for Action Nos. 40 to 55)

CERP does not mince words when it comes to justice: "the justice system has failed in its dealings with Indigenous Peoples."<sup>64</sup> The Commission points out that Québec's legal system is deeply incompatible with Indigenous and legal values and traditions and is a source of systemic discrimination towards First Nations and Inuit. As the Commission sees it, legal pluralism and Indigenous law must be recognized, and the autonomy of "communities to handle the majority of crimes involving Indigenous offenders residing in their territories, if they so desire,"<sup>65</sup> must be respected.

The Viens Commission report contains 16 calls for action to justice services, specifying that "the most important are aimed at supporting the necessary self-determination of First Nations and Inuit peoples when it comes to justice."<sup>66</sup> This is consistent with UNDRIP provisions, which stipulate that "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."<sup>67</sup> To date, initiatives have addressed all 16 calls for action relating to justice services.<sup>68</sup> Only one call is still being analyzed, No. 46, aimed at cities and municipalities.

<sup>64</sup> CERP Final Report (2019), cited above, footnote 3, p. 293.

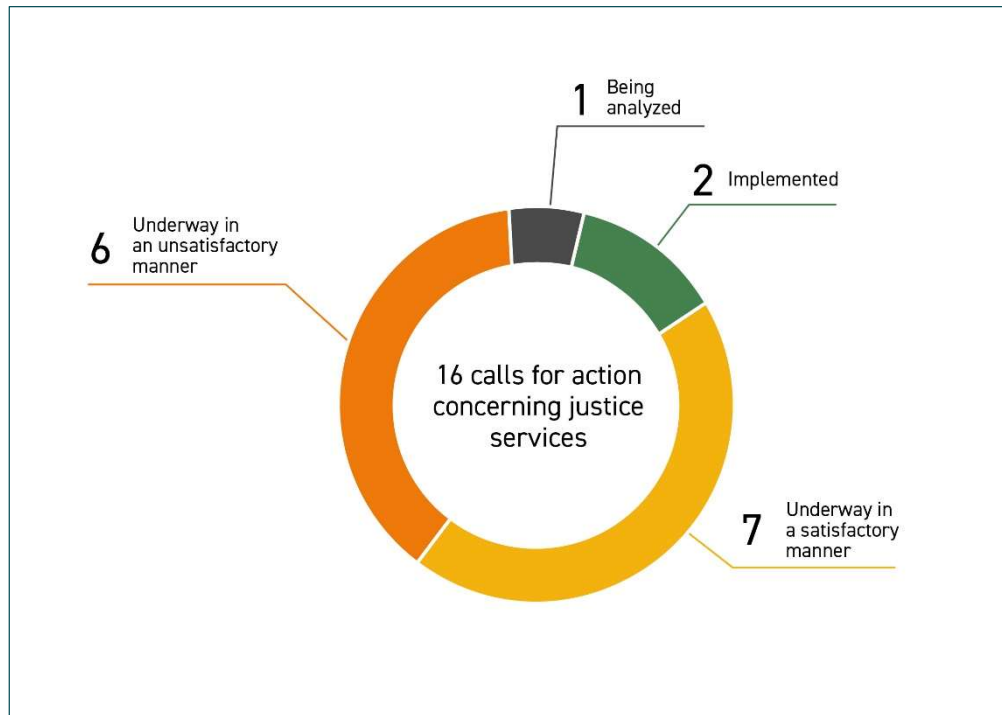
<sup>65</sup> *Ibid.*, p. 311.

<sup>66</sup> *Ibid.*, p. 293.

<sup>67</sup> UNDRIP (2007), cited above, footnote 25, art. 34.

<sup>68</sup> The table in Appendix 2 details the assessment of each call for action.

**Graph 4: Progress in implementing calls for action concerning justice services**



Two calls for action have been fully implemented:

- Amend the *Code of Penal Procedure* to put an end to imprisoning people who are vulnerable, homeless or at risk for becoming homeless for non-payment of fines for municipal offences (Call for Action No. 48);
- Periodically review the quality of the work done by Gladue report writers, in collaboration with First Nations and Inuit authorities (Call for Action No. 54).

In addition, the following calls for action are well underway:

- Set up and fund justice accompaniment and community justice programs in urban areas (Calls for Action Nos. 47 and 49);
- Increase resources for Gladue reporting (Calls for Action Nos. 51 to 53);
- Use videoconferences for bail hearings for accused persons in remote areas (Call for Action No. 50).

Finally, the implementation of certain calls for action is considered underway, but has not yet led to satisfactory results:

- Revitalize Indigenous law (Call for Action No. 40);
- Amend existing laws, including the *Act respecting the Director of Criminal and Penal Prosecutions*, to allow agreements to be signed to create specific justice administration regimes with Indigenous nations, communities or organizations active in urban areas (Call for Action No. 41);

- Set aside a sustainable budget for Indigenous community justice programs and for the organizations responsible for updating them, proportionate to the responsibilities assumed, and adjusted annually (Call for Action No. 43);
- Amend the *Act respecting legal aid* to introduce special tariffs for cases involving First Nations or Inuit, in both civil and criminal matters (Call for Action No. 44);
- Secure sustainable funding and provide adequate facilities for exercising justice in the villages where the Itinerant Court sits (Call for Action No. 45);
- Provide for Gladue letters to be written automatically whenever an Indigenous person enters the system, and provide funding for this (Call for Action No. 55).

### **MAKE SELF-DETERMINATION AND SYSTEMIC CHANGES PRIORITIES IN MATTERS OF JUSTICE**

MJQ says it endorses the findings of the Viens Commission in general and is working proactively "in the spirit" of the calls for action. Its Bureau des affaires autochtones has doubled in size over the past two years. In addition to initiatives aimed at responding to Viens Commission recommendations, MJQ is implementing others at the request of and in collaboration with Indigenous partners. MJQ is also aware of the issues surrounding budget and initiative sustainability. It intends to discuss these issues with SRPNI and other government departments when the government's \$200 million budget measure for implementing the Commission's recommendations expires in March 2025. For the sake of consistency, MJQ says it has made the Viens Commission's calls for action a top priority, while adapting how it implements them and exploring other measures to address the issues at stake.

That said, despite the many justice service initiatives further to the Viens Commission report, there is no evidence that these initiatives were designed with a view to recording, studying and revitalizing Indigenous law. Yet, this is what Call for Action No. 40 demands.

Moreover, although MJQ has entered negotiations with certain communities and Nations interested in creating special justice administration regimes, suggested projects do not favour systemic change. This would have been the case, for example, if there had been a question of the legislative changes needed to create such systems and of modifying the guidelines of existing community justice programs to guarantee greater autonomy for communities in dealing with offences committed by their members. This would have been in line with Call for Action No. 41.

The new 2022-2027 FNI Action Plan would have been an opportunity to highlight measures and initiatives promoting greater self-determination for First Nations and Inuit in their administration of justice, as the Viens Commission report advocates. However, the measures found in the most recent action plan and intended for MJQ are more concerned with supporting Indigenous communities, translating texts into English and creating physical spaces for legal services for First Nations and Inuit.

It seems that MJQ has taken its lead from the Viens Commission report. However, MJQ initiatives regarding justice services are not necessarily those to which the Viens Commission gives priority. The Québec Ombudsman would nevertheless like to underscore MJQ's efforts to establish its action priorities in consultation with First Nations and Inuit partners.

#### EXAMPLES:

- Following tabling of the Viens Commission report, MJQ adopted a work plan for 2020-2021. This roadmap covered many of the calls for action, but also 2017-2022 FNI Action Plan measures. Since renewal of the latter, MJQ has used measures Nos. 6.5 and 6.6 to shape its response to Viens Commission findings.
- MJQ has prioritized calls for action concerning Gladue reports, courtworkers, and interpreters, as well as community and urban justice initiatives, as requested by First Nations and Inuit partners. As a result, in June 2021, MJQ announced a budget of \$2.9 million for producing Gladue reports. Of this amount, \$350,000 was used to hire five full-time Gladue writers.
- \$4 million in funding was announced in June 2021 for developing initiatives and the active participation of Indigenous friendship centres in justice programs such as the Programme d'accompagnement justice et intervention communautaire (PAJIC), the Programme de mesures de rechange général pour les adultes (PMRG) and the Programme d'accompagnement justice et santé mentale (PAJ-SM) in urban areas.
- The same funding enabled a three-year agreement with the Regroupement des centres d'amitié autochtones du Québec (RCAAQ) so that initiatives are consistent internally and are in line with Call for Action No. 42.
- In May 2022, the Makivvik Corporation was awarded a \$2.25 million three-year grant to support its various justice-related initiatives for Inuit.

### STRENGTHEN INTERDEPARTMENTAL COLLABORATION

In terms of interdepartmental collaboration, MJQ worked jointly with SRPNI on designing public service training on the realities of First Nations and Inuit and on renewal of the 2022-2017 FNI Action Plan. In addition, several agreements require frequent contact between MJQ and SRPNI. Lastly, collaboration exists with various departments, notably MSP, on common issues affecting First Nations and Inuit. MJQ advocates collaboration between departments and organizations and works with all its partners to achieve concerted action.

However, the Québec Ombudsman has noted difficulties with certain departments, as well as a lack of interdepartmental coordination and a concerted vision, which hampers the consistency and effectiveness of initiatives to implement the Viens Commission report.

#### EXAMPLES:

- Discussions between MSSS and MJQ concerning the Indigenous youth protection justice system, in particular, the *Chambre jeunesse*, are held on an *ad hoc* basis with various interlocutors on each side, but there is no work plan. This jeopardizes information accessibility and concerted interdepartmental actions on all these issues.

- The new FNI Action Plan would have been an opportunity to strengthen joint action between MJQ and other departments, as well as for interdepartmental mobilization in general, but this has not been the case.

## **ENSURE THE QUALITY OF MJQ COLLABORATIONS WITH INDIGENOUS PARTNERS**

MJQ's Office of Indigenous Affairs says it consults the Indigenous community constantly. It adds that it never starts implementing a call for action from the Viens Commission without first validating it with the First Nations and Inuit organizations concerned.

### **EXAMPLES:**

- MJQ believes in justice committees in Indigenous communities and works with justice initiative leaders active in various First Nations and Inuit organizations, most of whose positions are financed from its own budgets.
- Collaborations exist, notably between MJQ and Nunavik partners, as well as with the Table centrale pour l'accessibilité des services aux autochtones en milieu urbain.
- Exchanges take place at the Forum sociojudiciaire autochtone, whose mandate includes follow up on the recommendations of commissions of inquiry in Québec. However, so far there has been no confirmation of the Forum's active role in following up on the Viens Commission's calls for action.

Although there are many collaborations, relations between MJQ and Indigenous organizations do not always appear to be satisfactory. Various factors have been reported as obstacles to the quality of relations between MJQ and Indigenous organizations.

### **EXAMPLES:**

- **Communication difficulties:** Indigenous organizations said they sometimes had trouble finding out about MJQ's policy thrusts, identifying its role in certain projects and partnerships, and obtaining information in a timely manner.
- **A relationship where partners do not always feel treated as "equals," or where trust is lacking at times:** organizations feel they have to beg and ask permission from MJQ to act within their purview, notably because of funding clauses and reporting requirements that can be cumbersome and restrictive.
- **Having to reapply for funding on a regular basis, by project or every two years, and the resulting uncertainty:** for example, this is the case for organizations that offer ongoing services to their client population but that must continually apply for funding. They find the process cumbersome, stressful and detrimental to hiring and retaining qualified staff. Uncertainty also effects these organizations' relationship of trust with MJQ; they may feel that they are being watched and that they must constantly prove themselves to MJQ.



The operation and nature of partnerships should therefore be improved to ensure that all parties contribute their fair share to moving projects forward, and that relationships are marked by trust and recognition of the special status of First Nations and Inuit and their right to self-determination.

### **INCREASE ACCESS TO JUSTICE SERVICES IN NUNAVIK WITHOUT DELAY**

The Québec Ombudsman commends the government's desire to dedicate a specific measure in the 2022-2027 FNI Action Plan to improving the administration of justice in Nunavik. In fact, the Viens Commission's Call for Action No. 45 is a reminder that action on this front must be taken as quickly as possible given the challenges faced by the justice system and the Itinerant Court in the North.

In the Québec Ombudsman's opinion, this call for action must be marked as a priority, along with the implementation of other recent and complementary recommendations in this area, especially those in M<sup>e</sup> Jean-Claude Latraverse's *Report on the Situation of the Itinerant Court in Nunavik*, which are along the same lines as the Viens Commission's calls for action.

#### **EXAMPLES:**

- Access to legal aid for all Inuit;
- Non-judicialization of certain offences and expansion of the Alternative Measures Program for Adults in Aboriginal Communities (AMAP);
- Recognition of legal pluralism;
- Training for lawyers practicing in Nunavik in conflict resolution methods and Inuit customs;
- The addition of interpreters and the translation of proceedings into Inuktitut;
- Expanding the role of community justice committees;
- Information and awareness-raising campaigns on litigants' rights.

These recommendations reinforce several of the Viens Commission's calls for action (Nos. 14, 16, 25, 26, 39, 40, 42, 43 and 44) by addressing these issues from the specific perspective of the Nunavik justice system. The Québec Ombudsman believes it is high time to act, given the seriousness of the situation in Nunavik.

### **3.3 Correctional services (Calls for Action Nos. 56 to 73)**

The Viens Commission reports cases of racism and discriminatory acts against First Nations and Inuit people under the authority of correctional services: insults, vexatious behaviour, and discriminatory treatment compared to other inmates. In addition, according to the Commission, First Nations and Inuit offenders "appear to be at a huge disadvantage in their relations with correctional services."<sup>69</sup> Various factors such as geographical remoteness, loss of ties with family and community, language and cultural

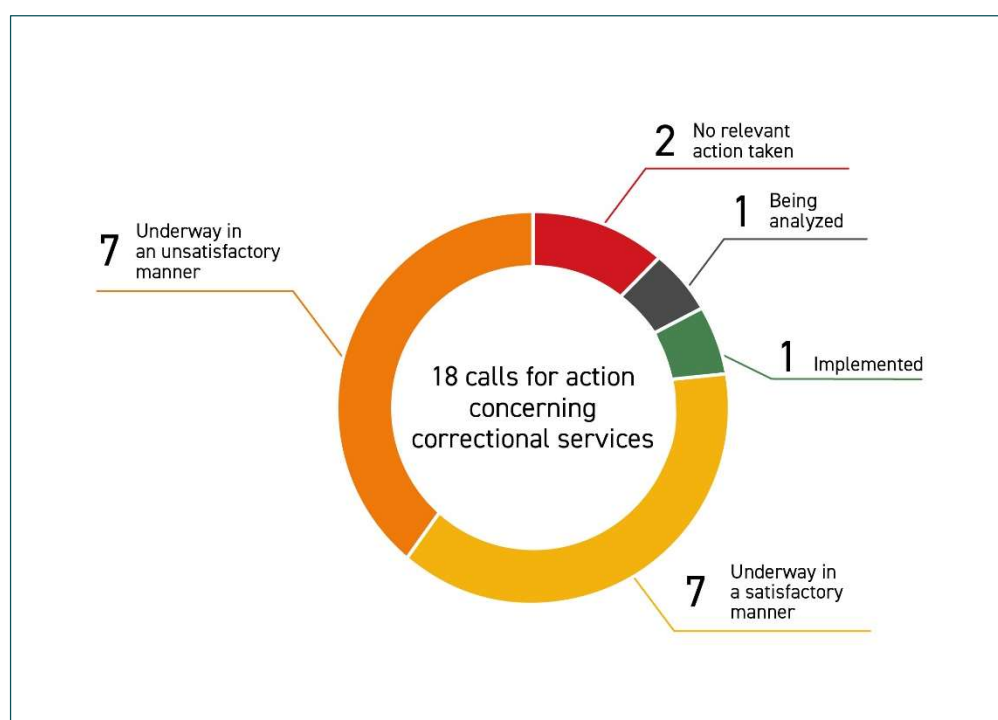
69 CERP Final Report (2019), cited above, footnote 3, p. 336.

barriers, and limited availability of programs and services adapted to their realities account for this.

The consequences are so serious that CERP concludes "that the prison system has failed in their rehabilitation"<sup>70</sup> and makes 18 calls for action.

In recent years, managing the COVID-19 pandemic has posed many challenges for detention facilities. As the Québec Ombudsman reminds us in its 2021-2022 annual report, "this context must not become an excuse for the denial of rights for the detainees."<sup>71</sup> The importance of implementing the Viens Commission's calls for action is therefore undeniable, even in these exceptional circumstances, especially since their purpose is to eliminate systemic discrimination and guarantee the rights of incarcerated Indigenous people.

**Graph 5: Progress in implementing calls for action concerning correctional services**



The most satisfactory actions undertaken concern:

- The slate of culturally comforting services to Indigenous inmates in some ten detention facilities (Call for Action No. 68);
- The awareness-raising program for correctional officers and unit managers who work closely with First Nations and Inuit (Call for Action No. 71);
- Video visitation systems in detention facilities (Call for Action No. 61);
- MSP's transfer of inmates' health files to the health and social services network. This is consistent with Call for Action No. 65, the only fully implemented call for action in correctional services.

<sup>70</sup> *Loc. cit.*

<sup>71</sup> Québec Ombudsman. *2021-2022 Annual Report*. 2022, p. 85. [Hereinafter "2021-2022 PC Annual Report"].

Calls for action which underperformed concern, among other elements:

- Establishing alternatives measures to incarceration for people with an intermittent sentence (Call for Action No. 58);
- A fund to finance family travel (Call for Action No. 60);
- Eliminating long-distance call costs (Call for Action No. 62);
- Specific assessment tools and distinct parole eligibility requirements for First Nations and Inuit (Calls for Action Nos. 57 and 73);
- A committee on improving detention conditions specific to First Nations and Inuit women (Call for Action No. 64).

### **MSP's response to the Viens Commission in matters of correctional services**

As explained in the section on police services, MSP has set up a governance structure to follow up on calls for action from the various commissions of enquiry, FNI Action Plan measures and Indigenous issues in general. Only time will tell how effective the committees are.

In the autumn of 2021, the government invested \$11.9 million in twelve measures relating more specifically to correctional services. These measures are contained in the 2022-2027 FNI Action Plan.

### **ACT THROUGHOUT THE PRISON SYSTEM TO AIM FOR SYSTEMIC CHANGE AND ELIMINATE ALL DISCRIMINATION**

Since the Viens Commission report was tabled, several things have been done to ensure that First Nations and Inuit receive appropriate support in detention facilities. For example, agreements have been signed with various Indigenous organizations to provide culturally safe support services, cultural activities and visits from Elders to Indigenous inmates in nearly 75% of Québec's prisons. In addition, new training has been developed in collaboration with Indigenous partners and will be given to correctional staff working in detention facilities. These initiatives are helping to improve the services offered to First Nations and Inuit detainees and are in line with the Viens Commission's calls for action. However, the Québec Ombudsman believes that these initiatives alone will not bring about systemic change, cause correctional services for First Nations and Inuit to be rethought, tools and standards to be recast, and ultimately, systemic discrimination against First Nations and Inuit in the prison system to be eliminated.

#### **EXAMPLES:**

- In response to Call for Action No. 57, an Indigenous component was incorporated into the new tool titled *Risque, besoins, et analyse Clinique – Personnes contrevenantes du Québec* (RBAC-PCQ), designed to assess offenders with a view to their correctional management. However, no Indigenous experts were consulted about this tool, and to date there is no evidence that it is adapted to First Nations and Inuit realities.
- Although the Viens Commission report recommended that action be taken as soon as possible to improve Indigenous women's detention conditions right up until their release, correctional services have not undertaken a comprehensive project for this purpose, as recommended in Call for Action No. 64. Some measures to improve detention services and conditions for Indigenous women have

certainly been implemented or planned (they will be described below), but remain insufficient to meet the intent of the call for action, which is to remedy the "highly discriminatory" situation experienced by Indigenous women detained in the Québec prison system.

- MSP's response to Call for Action No. 73 has not been satisfactory. It calls for structural legal changes to ensure that the particular realities of First Nations and Inuit inmates are considered when they apply for parole.

### **CREATE CONDITIONS FOR FRUITFUL COLLABORATION WITH ALL CURRENT AND POTENTIAL INDIGENOUS PARTNERS**

MSP has several partnerships with First Nations and Inuit organizations and authorities aimed at establishing culturally comforting support services, cultural activities and visits by Elders to incarcerated First Nations and Inuit people. This slate of services is a follow-up to Call for Action No. 68 and exists in nearly 75% of Québec's detention facilities, albeit at varying levels of intensity.

Some Indigenous organizations have noted improved relations with MSP and a show of trust on its part. They say that they now feel like real partners. On the other hand, others complain that working with people in prison is difficult because access to them is a problem, that their staff are not recognized and that there are not enough opportunities to collaborate with MSP.

This difference in perception seems to reveal a lack of consistency in the way partnerships are managed with First Nations and Inuit organizations and authorities wishing to offer services and support to Indigenous inmates. Furthermore, recognizing the special status of First Nations and Inuit, and the organizations that represent them, does not always seem to be taken into account. Improvements could certainly be made in this area.

### **PROVIDE DECENT AND APPROPRIATE DETENTION CONDITIONS FOR INDIGENOUS WOMEN WITHOUT DELAY**

Improving prison conditions for First Nations and Inuit women and taking their specific needs into account must be a top priority. Call for Action No. 64 presses for a committee on this subject to be launched as quickly as possible, in collaboration with First Nations and Inuit authorities, covering activities from the time of the women's arrest until their release.

At present, the living conditions of the women incarcerated at the Leclerc detention facility in Laval (the prison institution for women in Québec) are unacceptable and have been for a long time, and, as the final CERP report puts it, "the fate reserved for incarcerated women in general and for incarcerated Indigenous women in particular appears to be highly discriminatory."<sup>72</sup>

In the Viens Commission report, the Syndicat des agents de la paix en services correctionnels du Québec deplored not only the condition of the facilities, but also the fact that First Nations and Inuit women were more vulnerable than others due to isolation, remoteness and language barriers. The Commission's report also noted a 320% increase in the number

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72 CERP Final Report (2019), cited above, footnote 3, p. 349.

of Indigenous women in provincial custody in just under 10 years.<sup>73</sup> It also indicates that nearly 50% the women who committed suicide at the Leclerc facility were Inuit.

Despite this disturbing reality, MSP is not making Call for Action No. 64 a priority. For the time being, work is being done to gain a better understanding of the specific features of female incarceration. In addition, correctional services have conducted a survey to determine the needs and interests of incarcerated First Nations and Inuit women in terms of the activities and services offered in detention facilities.

It goes without saying that MSP could do much more, given the seriousness of the situation and the urgency to act reported by the Viens Commission. For example, more sustained partnerships should be forged with First Nations and Inuit women's associations. In addition, it is important to consider the implementation of the recommendations made in the *Towards Collective Healing: Addressing the experiences of Indigenous women in Quebec's provincial prison*<sup>74</sup> report. This work was partly funded by MSP.

It is worth repeating that the Québec Ombudsman "considers it unacceptable that women are still being detained in a facility that, at the time, was deemed inadequate by the Ministère de la Sécurité publique's authorities."<sup>75</sup> That said, it applauded MSP's December 19, 2022 announcement that a new detention facility for women would be built in Montréal no later than 2030.<sup>76</sup>

### 3.4 Health services and social services (Calls for Action Nos. 74 to 107)

Viens Commission report findings concerning health services and social services emphasized that "both access to services and the quality of care and interventions available to Indigenous people are problematic on many levels."<sup>77</sup> More specifically, they describe cultural barriers, service access problems, a complex shared jurisdiction, human resources management issues and a failing complaints system.<sup>78</sup>

MSSS says that to structure its response to the calls for action that concern it, while taking its actual capabilities into account, it is working on the following priority initiatives:<sup>79</sup> implementing cultural safety in health and social services network (HSSN) institutions, rolling out culturally safe front-line services for Indigenous populations in urban areas, and Comité des partenaires de la gouvernance en santé et services sociaux pour les Premières Nations du Québec work.

Some Indigenous organizations consulted as part of this follow-up would have expected MSSS to come back to them after the Viens Commission report to gauge their needs and perspectives before putting the measures to be implemented in order of priority. No such exercise was carried out, and the measures targeted by MSSS were based on criteria determined by the provincial authorities.<sup>80</sup>

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73 *Ibid.*, p. 131. These data also echo the Correctional Investigator's latest report, which states that on April 28, 2022, the proportion of Indigenous women detained in federal penitentiaries spiked to 50%, a first. In maximum security prisons, the proportion of female inmates is 65%. These statistics are alarming. The Correctional Investigator describes Canada's prison system as "emblematic of modern neocolonialism." Source: Office of the Correctional Investigator. *2021-2022 Annual Report*, 2022, p. 93.

74 "Recommendations" in *Towards Collective Healing: Addressing the experiences of Indigenous women in Quebec's provincial prison*, [website of the site of the research project headed by Dr. Felice Yuen], consulted on July 6, 2023.

75 2021-2022 PC Annual Report, cited above, footnote 71, p. 92.

76 Office of the Minister of Public Security. *Un nouvel établissement de détention pour femmes à Montréal*, [news release], December 19, 2022.

77 CERP Final Report (2019), cited above, footnote 3, p. 365.

78 For more details: CERP Final Report (2019), cited above, footnote 3, chapter 10.

79 MSSS also says that the work of the Standing Committee on the *Youth Protection Act* is a priority as well. The implications of this choice will be discussed in the following section.

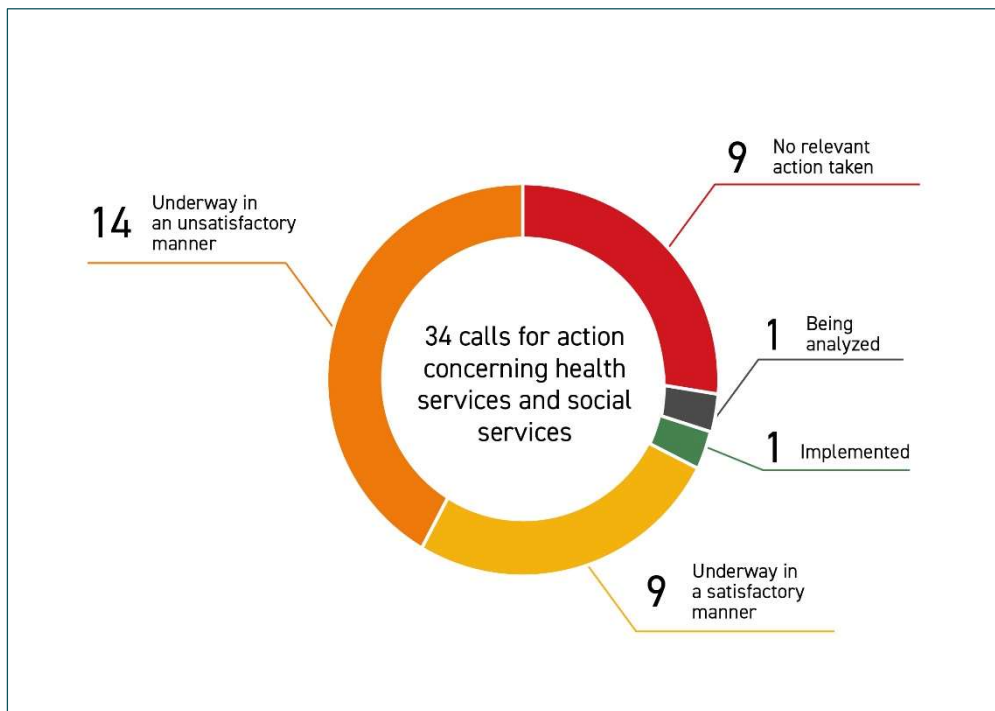
80 According to the Indigenous partners consulted, this is the *modus operandi*. MSSS identifies its priorities, secures its appropriations, then comes back to the partners for their contribution to implementing mandates.

The assessment of measures in response to calls for action in health and social services reflects this prioritization. For example, several calls for action deemed to have been completed or to have led to satisfactory measures so far concern cultural safety in HSSN and providing front-line services in urban areas:

- Call for Action No. 96, requiring MSSS to encourage its network institutions to set up services modelled on the Minowé Clinic, is the only one that has been fully implemented.
- Call for Action No. 75, requiring that MSSS encourage health and social services institutions to set up services and programs based on cultural safety principles, developed for Indigenous peoples and in collaboration with them, is well underway.
- Call for Action No. 81, asking MSSS to make developing culturally appropriate spaces for Indigenous nations a priority in public health institutions, especially in regions where there is a substantial Indigenous population, is well underway.

At the same time, there has been no progress regarding most of the calls for action in health and social services that were not marked as priorities. As in other public services, there is a disconnect between, on the one hand, the avowed willingness to co-work with all interested parties to develop solutions aimed at resolving problems and, on the other hand, the actual resources deployed to achieve this. In addition, the constraints arising from the division of powers imposed by Canada’s constitutional framework, discussed at length in the Viens Commission report,<sup>81</sup> continue to slow down progress in resolving issues of access to healthcare and social services, and even more so for communities not covered by an agreement.

**Graph 6: Progress in implementing calls for action concerning health services and social services**



81 CERP Final Report (2019), cited above, footnote 3, pp. 213, 234, 365, 366, 391, 394, 395 and 450.

## **ADOPT A COMPREHENSIVE LONG-TERM STRATEGY TO BRING ABOUT SYSTEMIC CHANGE**

Under the current legislative framework, MSSS is responsible for ensuring that HSSN performs. It is also responsible for defining main orientations and priorities, which institutions then implement based on the specific characteristics of the territories they serve. Under this division of roles and responsibilities, each institution has administrative autonomy, exercised in collaboration with the community and the institutional parties involved in providing healthcare and social services.

Responsibility for providing healthcare and social services to communities covered by an agreement and those which are not is shared with the federal government. MSSS also stresses the importance of collaborating with Indigenous authorities on all projects and initiatives that concern them. It claims to be present, attentive and collaborative in all its priority areas.

However, although some of the actions arising from priority projects are working, there is a lingering impression of fragmentation. Because MSSS has failed to provide overall direction or objectives for implementing all the calls for action, any progress seems to hinge on institutional managers' willingness to commit to them.

### **EXAMPLES:**

- Four years after the Viens Commission report was tabled, the Indigenous authorities consulted continue to see major disparities from one region to another and from one institution to another in terms of changes in practices to ensure Indigenous patients' cultural safety.
- In terms of creating service continuums, some Indigenous nations and organizations have managed to develop partnerships and negotiate agreements to address the inequalities that First Nations and Inuit face regarding access. While tangible gains have been made in some health regions, the situation is quite different elsewhere.

Moreover, MSSS's answers in reporting on service supply and needs in different sectors and regions often are incomplete. This lack of information about how network-wide work is progressing seems to stem from the decision not to adopt an overall long-term strategy for implementing the calls for action. Without such a strategy that has targets project leaders operating the systemic changes recommended by the Commission is difficult.

## **MAKE DISCRIMINATION PREVENTION PART OF MAJOR DEPARTMENTAL POLICIES**

The discriminatory situations described by the Viens Commission among others show that a range of practices and interventions need to be examined and reviewed so that action is taken to ensure that these events do not recur in HSSN.

As part of its follow-up work, the Québec Ombudsman notes that MSSS is more often reactive than preventive when it comes to intervening in discriminatory situations, including those arising from systemic discrimination. Participating in structuring initiatives at the federal level or formally adopting guidelines and principles, such as Joyce's Principle and Jordan's Principle, likely to rally MSSS staff and set the tone for the

standards expected within the organization, are solutions that tend to be shelved or that are given a lukewarm reception.

#### EXAMPLES:

- MSSS's refusal to participate in the federal working group on forced sterilizations of Indigenous women meant that it was slow off the mark in acting on the issue. At the time, to distance itself from the issue, MSSS claimed that no cases had been reported in Québec health centres. After a detailed report<sup>82</sup> on the issue was published, MSSS finally acted, demonstrating some recognition of the specific nature of the issues faced by Indigenous women in the healthcare system.<sup>83</sup>
- Call for Action No. 101 on access to the NIHB program asks MSSS to work with the federal government to ensure that it offers First Nations and Inuit a basket of services as attractive as that intended for Quebecers as a whole.<sup>84</sup> In response, MSSS stated that it was up to those in charge of the federal program to provide information about the particularities of the application process and to review their slate of services. Given the regional disparities in access for First Nations and Inuit, at best, MSSS seems prepared to help raise awareness among professional orders (Call for Action No. 102).

The Québec Ombudsman notes that the *Act to establish the cultural safety approach within the health and social services network*<sup>85</sup> was tabled on June 9, 2023. It aims, notably, to respond to Call for Action No. 74, which requires that health and social services institutions adopt culturally safe practices for First Nations and Inuit. This call for action also asks that LSSSS be amended to include the notion of cultural safety, a course of action the government had not followed at the time this document was being written.

Generally speaking, this reactive approach means that MSSS cannot take a firm stand on these fundamental issues and engage *before* serious events occur. In fact, in many cases, any action by authorities to prove they are handling discrimination-related issues occurs only after the problems have made the headlines.

#### EXAMPLES:

- While several calls for action concern making healthcare institutions culturally safe, greater strides were made following the death of Joyce Echaquan, whose tragic circumstances sent shockwaves throughout Québec society.

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82 Since this working group was formed, a Québec study showed that at least 22 Indigenous women have undergone forced sterilization in Québec in recent decades. Nearly 20 other testimonies about forced sterilization or obstetrical violence could not be obtained because of travel restrictions due to the pandemic. See: BASILE, S. & BOUCHARD, P. (2022), cited above, footnote 22. Another report, from 1982, exposes obstetrical violence experienced by Indigenous women, but the report was shelved. This shows yet again that systemic change concerning Indigenous communities has not occurred. See: DAGENAIS, Louis (Chair). *Étude sur les services de santé des réserves attikameks et montagnaises*, Conseil Attikamek-Montagnais, 1982.

83 CARRIER, Léa and OUELLETTE-VÉZINA, Henri. "DPJ : Québec met fin aux signalements à la naissance," *La Presse*, April 14, 2023.

84 While this was not discussed in the context of the Commission, promoting SNA Cree and Inuit programs, funded by the Québec government, would be appropriate so that First Nations and Inuit have access to the services and medications to which they have a right.

85 The Québec Ombudsman is reserving its comments for the parliamentary proceedings on this bill.



- The two Indigenous communities for which MSSS increased its emergency medical transport service investments were the ones that went to the media with their story.

In short, the Québec Ombudsman believes that MSSS actions should be preceded by comprehensive guidelines aimed specifically at deactivating the workings of systemic discrimination. This change in approach seems essential if the far-reaching changes called for in the CERP report are to occur.

### **EXTEND POPULATION-BASED RESPONSIBILITY TO THE ENTIRE INDIGENOUS POPULATION**

The Viens Commission report emphasizes the leverage provided by population-based responsibility<sup>86</sup> so that every HSSN institution better meets First Nations and Inuit healthcare and social service needs. Based on LSSSS, this concept enjoins each of these institutions to "ensure the accessibility of the institution's services throughout the territory under its responsibility."<sup>87</sup>

MSSS argues that this responsibility only extends to offering full care and service coverage when First Nations and Inuit come to HSSN institutions. However, the Viens Commission goes a step further: this responsibility requires that MSSS consider what access to care and services for all people really means, including people living in communities not covered by an agreement. Failing to do so would be tantamount "to consciously turning a blind eye."<sup>88</sup>

As a result, it comes as no surprise that a significant proportion of the calls for action are aimed at engaging the Québec government in work to mitigate service disconnect, improve the continuum of care, and reduce the pressure felt by communities that are not federally funded to provide the full range of services usually offered by the province.<sup>89</sup> However, according to MSSS, making up the shortfall to adequately fund health and social services in communities not covered by an agreement could backlash because it might encourage the federal government to further disengage from its fiduciary responsibility towards First Nations.

Nearly four years after the Viens Commission's report was published, coordination between HNNS and health centres in communities not covered by an agreement remains difficult. These problems continue to compromise access to care and services for the members of these communities.

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86 CERP Final Report (2019), cited above, footnote 3, p. 365.

87 *Act respecting health services and social services*, CQLR c. S-4.2, s. 172, s. 3.1.

88 CERP Final Report (2019), cited above, footnote 3, p. 365.

89 The delays for resolving these issues also stem from the complexities of shared government responsibilities for communities not covered by an agreement. This report deals with these issues in greater detail under "Co-prioritize in order to structure tripartite work over the longer term."

#### EXAMPLES:

- Call for Action No. 78 encouraged the signing of agreements between public health and social services institutions and Indigenous authorities to guarantee spaces and culturally safe service for members of the aging Indigenous persons and their families. As MSSS sees it, it is not responsible for "encouraging" the signing of agreements between institutions and Indigenous organizations; at most, it could validate the agreements. This position contributes to the fact that there is currently no culturally adapted slate of services for this segment of the Indigenous population.
- Call for Action No. 98 recommended that a directive be issued to health and social services institutions to establish clear service corridors and communication protocols with Indigenous authorities in the communities. In this regard, MSSS refers to the guide titled *La sécurisation culturelle en santé et en services sociaux: vers des soins et des services culturellement sécurisants pour les Premières Nations et les Inuit*,<sup>90</sup> which encourages the institutions and the health centres in communities not covered by an agreement to enter into agreements to establish such corridors. While this is a good start, it does not guarantee that efforts will be made to fill in the gaps in all communities not covered by an agreement.

The scope of population-based responsibility towards nations covered by an agreement also seems to be a blind spot for MSSS. Although MSSS acts and provides funding based on the various conventions and agreements signed with the nations concerned, this more direct relationship does not guarantee that these nations' realities are taken into account more fully. A number of issues stand in the way of achieving substantive equality<sup>91</sup> for members of these communities in accessing adequate health services.

#### EXAMPLES:

- Call for Action No. 90 requests financial support for establishing culturally safe addiction treatment centres and detoxification centres in urban areas and communities covered by an agreement. In response, the MSSS stated that for every financial package for addiction prevention and treatment, an amount is set aside to enable Nunavik and Terres-Cries-de-la-Baie-James to set up culturally safe services. However, given the lack of data or needs analyses on this issue, it is impossible to determine whether amounts are sufficient.
- The incidence of tuberculosis remains very high in Nunavik (100 to 300 times higher than in the rest of Québec), even though there are services and funding to combat it.

90 Ministère de la Santé et des Services sociaux. *La sécurisation culturelle en santé et en services sociaux : vers des soins et des services culturellement sécurisants pour les Premières Nations et les Inuit*, March 2021 Ed., [Hereinafter "Guide sur la sécurisation culturelle (2021)"].

91 **Substantive equality** takes pre-existing inequalities between individuals into account. The concept of substantive equality is recognized and applied by the courts, which deem that differential treatment may be necessary when the imposition of identical treatment for all persons (**formal equality**) could create discrimination towards certain persons. See: CDPDJ. *Guide d'accompagnement : traitement d'une demande d'accommodement*, May 2018, p. 12.

In the Québec Ombudsman's opinion, the limited scope given by MSSS to the principle of population-based responsibility hinders an appropriate response to the needs of Indigenous citizens in Québec.

It is also important to note that this approach (not to offer services other than those of physicians in communities not covered by an agreement) is not systematically followed. In fact, there are examples of facilities whose services are funded by the provincial government (Kateri Memorial Hospital Centre, CHSLD de Wendake). A recent example is the announcement of a project to build an "adapted medical centre" in Wendake to meet local needs, where care will be "culturally adapted to the needs of First Nations."<sup>92</sup>

It is therefore clear that to protect Indigenous citizens' right to health wherever they live, there are openings that exist and opportunities to be seized to broaden how the principle of population-based responsibility is seen within the meaning of the Viens Commission report. The Québec Ombudsman invites MSSS to further explore possibilities in this regard.

## GRANT LEVERAGE TO ENSURE THAT COMMITTEE WORK ACHIEVES RESULTS

As a rule, MSSS uses existing collaborative mechanisms in its work to respond to calls for action. For example, the advisory committee that oversaw production of the *Guide sur la sécurisation culturelle*<sup>93</sup> became the preferred forum for the Direction des affaires autochtones in developing the *Plan global d'implantation de la sécurisation culturelle* in response to Call for Action No. 75.

While some Indigenous partners appreciated this committee because of the importance it attached to their contribution, the experiences recounted by others were not as positive. The feeling of participating in all stages of a project and genuinely influencing its trajectory seems to depend on a multitude of factors. For example, representatives of certain Indigenous organizations said they were disappointed to be called to committees to rubber-stamp policies or projects that had already been developed. In their view, it would have been better for them to be involved in the initial strategic thinking exercise. This would have enabled them to present their needs and priorities.

In several cases in point, the information collected reflects a difference of perception as to the actual progress of committee work: while departmental representatives feel that things are moving forward, First Nations and Inuit representatives feel otherwise. They are critical of the slowness of the process and, in some cases, of an apparent lack of willingness to resolve situations deemed problematic. Call for Action No. 106 is a striking example of this.

### EXAMPLE:

Call for Action No. 106 concerns implementing the Committee's recommendations on applying *Bill 21, Act to amend the Professional Code and other legislative provisions in the field of mental health and human relations*. The adoption of this law in 2009 raised criticism in Indigenous circles. In response, a committee was formed, nine recommendations were made, and a report was released in 2016.<sup>94</sup>

92 PELLETIER, Émilie. "Un nouveau pôle médical adapté à Wendake", *Le Soleil*, May 9, 2023.

93 *Guide sur la sécurisation culturelle* (2021), cited above, footnote 90.

94 Committee on the Application of Bill 21 in Aboriginal Communities. *Solutions adapted to First Nations and Inuit communities to support the application of Bill 21*, [report], Office des professions du Québec, 2016.

Subsequently, a steering committee led by SRPNI was created with those concerned. However, even though this committee meets several times a year and that, in its 2017-2022 and 2022-2027 PNI Action Plan, SRPNI commits to implementing all these recommendations, there is no indication that this will be done any time soon.<sup>95</sup> This unwieldy process means that most of the issues raised ten years ago keep impacting negatively many social services sectors and blocking access to local expertise for the members of communities covered by an agreement and communities that are not.

In the Québec Ombudsman's opinion, giving department authorities mandates and the go ahead to make decisions in resolving the issues that are holding up work involving First Nations and Inuit partners is a course of action that seems to be failing. If there is to be tangible progress on the issues deemed urgent by the Viens Commission, it seems necessary that there be strategic thinking in order to target the levers to be given to the various committees in which First Nations and Inuit participate.

### **CO-PRIORITIZE IN ORDER TO STRUCTURE TRIPARTITE WORK OVER THE LONGER TERM**

Thirteen calls for action in the Viens Commission report chapter on health and social services recommended that there be tripartite negotiations or discussions between the two levels of government and First Nations and Inuit authorities. Due to the complexity of the issues arising from the sharing of constitutional jurisdictions, these negotiations were deemed essential to resolving the problems of access to healthcare and social services that citizens in communities not covered by an agreement face more often than those in communities covered by an agreement.

As mentioned at the outset, MSSS considers its participation in the *Comité des partenaires du processus de gouvernance en santé et services sociaux des Premières Nations au Québec* a priority. This process, which FNQLHSSC initiated in 2014, is governed by a memorandum of understanding signed in 2019 by federal government, provincial government and FNQLHSSC representatives. The information gathered as part of the follow-up process tends to show that the pace and aspirations of the First Nations are being respected and that those involved are committed to co-constructing the milestones in preparation for the next phase: implementing the governance structure. This committee's work is prioritized jointly by all the partners.

Although, in MSSS's opinion, this committee could, theoretically, be a forum for negotiations to resolve issues of access to healthcare and social services, this is not the role it is playing in the real world. Instead, this space is devoted to high-level discussions aimed at deciding on parties' roles, shared responsibilities and accountability with a view to implementing the health, social services and wellbeing governance model currently being developed. As a result, almost all the calls for action concerning access to health and social services for communities not covered by an agreement are not, for the time being, the subject of tripartite discussions or negotiations.

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<sup>95</sup> Note that Bill 32, *An Act to establish the cultural safety approach within the health and social services network*, was tabled on June 9, 2023. It proposes amending the *Professional Code* (c. C-26) regarding the performance of three types of reserved activities. The Québec Ombudsman will follow developments closely.

#### EXAMPLES:

- Call for Action No. 89 asks MSSS to begin negotiations on developing shelters for Indigenous women in communities not covered by an agreement. No progress has been made.
- Call for Action No. 104 recommends that MSSS initiate discussions with the federal government to extend Jordan's Principle to adults. The information obtained shows that Indigenous authorities consider this issue a priority. However, even though the Table de concertation régionale sur le principe de Jordan au Québec was created and continues to meet, the Indigenous partners consulted perceive MSSS to be closed to dealing with this issue.

It should be noted that the youth protection section in the Commission's report also includes five calls for action recommending that there be tripartite negotiations or discussions to improve the state of services for Indigenous children, youth and families in nations not covered by an agreement. As for health and social services, MSSS says that the Comité des partenaires du processus de gouvernance en santé et services sociaux des Premières Nations au Québec could be a forum for discussing these issues. However, MSSS points out that given the Québec government's legal challenge to "federal Bill C-92," this is not the time to continue negotiations. In the wake of the Supreme Court decision, there will be new guidelines to which all parties will have to adjust.

Be that as it may, it is important to note that some of the calls for action requiring tripartite negotiations are dealt with outside the committee referred to above. For example, this is the case with Call for Action No. 80, aimed at developing long-term care services in communities not covered by an agreement. These subjects are seemingly addressed at the joint committee for implementing the Politique-cadre sur les soins continus aux personnes en perte d'autonomie des Premières Nations au Québec, of which MSSS and Indigenous Services Canada are members.

In this context, the Québec Ombudsman encourages the parties to continue working together to create a governance model that will meet First Nations' health, social services and wellness needs and aspirations. However, in the meantime, it is important that all those involved strive to find transitional solutions to the access issues faced by citizens in communities not covered by an agreement, based on an up-to-date situation assessment. To begin such work, MSSS would do well to invite the Indigenous authorities to take part in a co-assessment exercise to determine whether the calls for action are still relevant and, if so, in what order they should be addressed.

### 3.5 Youth protection services (Calls for Action Nos. 108 to 137)

In recent years, very disturbing findings about youth protection services in Indigenous context have emerged from various commissions of inquiry. These conclusions bring the need for far-reaching changes sharply into focus.<sup>96</sup>

The Viens Commission report cites chronic overrepresentation of First Nations and Inuit children in the youth protection system, as well as discriminatory principles in the *Youth*

<sup>96</sup> Royal Commission on Aboriginal Peoples (1996), Truth and Reconciliation Commission of Canada (2015), Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress (Viens Commission) (2019), National Inquiry into Missing and Murdered Indigenous Women and Girls (NIMMIWG) (2019), Special Commission on the Rights of the Child and Youth Protection (Laurent Commission) (2021).

*Protection Act* (YPA).<sup>97</sup> It also points out that many Indigenous people see the system as being foisted on them from the outside, and, as a result, as perpetuating the harmful consequences of the assimilation process arising from residential-school policy.<sup>98</sup>

Since the Viens Commission report was tabled, several important events have occurred that affect youth protection services in the Indigenous context.

#### EXAMPLES:

- On January 1, 2020, the *Act respecting First Nations, Inuit and Métis children, youth and families* (commonly referred to as "federal Bill C-92") came into force. Since then, the Québec government has been challenging the federal legislation and has used the reference procedure to obtain a decision on constitutional issues from the Court of Appeal. In February 2022, the Court of Appeal validated most of "federal Bill C-92." Since then, the constitutional debate has been referred to the Supreme Court of Canada.
- In April 2021, the Laurent Commission tabled its report, some of whose recommendations specifically concern youth protection in Indigenous context. One of its recommendations is to implement CERP's calls for action and NIMMIWG's calls for justice.<sup>99</sup> As in the Viens Commission report, the strengthening of First Nations and Inuit autonomy in youth protection matters is clearly indicated as the direction to be taken.<sup>100</sup>
- In January 2022, the *Loi de la protection sociale atikamekw d'Opitciwan* came into force, in accordance with "federal Bill C-92";
- On April 26, 2022, further to Bill 15 (December 2021), the *Act to amend the Youth Protection Act and other legislative provisions* came into force.
- In April 2023, the Minister Responsible for Social Services confirmed in a news release that birth alerts had been abolished and replaced by a preventive and intensive prenatal services plan.

These legislative changes adopted by the Québec government as well as Laurent Commission recommendations attest to a desire to improve youth protection services in an Indigenous context and that the purpose of these changes is to recognize the special character of First Nations and Inuit. However, their implementation in the real world presents major challenges.

Although it does not have a specific action plan for implementing the Viens Commission's calls for action, MSSS has identified several projects that will contribute to their implementation, the main ones being:

- Developing a reference framework for the life projects of First Nations and Inuit children;
- Legislative changes to YPA;

97 CERP Final Report (2019), cited above, footnote 3, pp. 408 and 442.

98 *Ibid.*, p. 407.

99 Laurent final report (2021), cited above, footnote 20, p. 297.

100 *Ibid.*, p. 297 and CERP Final Report (2019), cited above, footnote 3, p. 459.

- Establishing cultural safety in MSSS establishments, including training;
- MSSS participation in the Comité des partenaires de la gouvernance en santé et services sociaux pour les Premières Nations du Québec.

MSSS is also working with SRPNI to determine priority actions in youth protection. Out of the 52 measures in the 2022-2027 FNI Action Plan, three concern this sector.<sup>101</sup> Some of these measures contribute to implementing certain calls for action, some of which the Viens Commission deemed priorities. The measures mainly concern self-determination and cultural safety (Nos. 115, 116, 135, 136 and 137), and some have generated funding and projects.

#### EXAMPLES:

- As part of Measure 3.7 of the 2022-2027 FNI Action Plan, MSSS is providing \$3 million in funding to carry out Calls for Action Nos. 115 and 116 aimed at improving youth protection assessment methods with Indigenous experts and at developing new clinical tools to eradicate the discriminatory effects of current tools. Experts from the various nations sit on a committee coordinated by FNQLHSSC to implement these calls for action.
- As part of Measure 3.8 of the 2022-2027 FNI Action Plan, MSSS has developed the Tikinagan training course in partnership with UQAT for the entire staff of HSSN's Youth in difficulty services program. The purpose is to improve their knowledge of Indigenous realities and to strengthen their cultural skills in the context of youth protection.

However, given the fact that, proportionally, 2022-2027 FNI Action Plan measures aimed at the youth protection sector are far from plentiful, it can be assumed that First Nations and Inuit communities' realities in this sector are not a government priority. Furthermore, to date, most of CERP's 30 calls for action concerning youth protection have not yet been implemented or have not produced satisfactory results.

The calls for action that have progressed satisfactorily to date are those related to Measure 3.7 of the 2022-2027 FNI Action Plan (Calls for Action Nos. 115 and 116). So have some affected by the legislative amendments brought about by the *Act to amend the Youth Protection Act and other legislative provisions* (Call for Action No. 120), including Call for Action No. 117, the only one which the Québec Ombudsman deems fully implemented.

<sup>101</sup> Measure 3.6. Help communities become autonomous in the area of child and youth protection by supporting and promoting the signing and implementing of agreements (MSSS), Measure 3.7 Help adapt clinical practices to the realities, cultures and needs of Indigenous children and families (MSSS), and Measure 3.8. Ensure that more managers, caseworkers and foster families receive training on cultural safety in the area of child and youth protection and community based services for young people in difficulty to improve their knowledge of Indigenous realities and enhance their cultural skills (MSSS), in the 2022-2027 FNI Action Plan, cited above, footnote 7.

**Graph 7: Progress in implementing calls for action concerning youth protection services**



### **STRENGTHEN COLLABORATION BETWEEN MSSS AND INDIGENOUS ORGANIZATIONS FOR EFFECTIVE YOUTH PROTECTION ACTION**

According to the *Youth Protection Act (YPA)*, "Indigenous persons are best suited to meet the needs of their children in the manner that is the most appropriate."<sup>102</sup> As a result, it is crucial that MSSS's Direction générale du développement, du bien-être et de la protection de la jeunesse (DGDBEPJ) develop and maintain strong relationships with First Nations and Inuit representatives in order to improve services for Indigenous families, youth and children. This vision must also be extended within MSSS institutions so that all DYPs and staff are on the same page when it comes to the foundations of YPA in an Indigenous context.

These relationships must, among other things, promote community autonomy in service delivery and recognize the particular character of communities in order to respect their cultural values, their idea of family and their distinct reality.<sup>103</sup>

MSSS affirms that developing relationships of trust with Indigenous representatives is one of its priorities, and that it ensures that there are inclusive working spaces to address the issues that concern them. Some Indigenous representatives feel that their relations with MSSS have improved in recent years, especially in terms of communications between the various bodies and through operational committees being created.

<sup>102</sup> *Youth Protection Act*, CQLR, c. P-34.1.

<sup>103</sup> CERP Final Report (2019), cited above, footnote 3, pp. 407 and 222.



#### EXAMPLES:

- First Nations and Inuit youth protection authorities appreciate the fact that they can work directly with the National Director of Youth Protection instead of having to go through MSSS's Direction des affaires autochtones;
- The standing committee on YPA application now has three Indigenous representatives;
- A working group on YPA provisions specific to First Nations and Inuit children, youth and families, composed of Indigenous representatives, was formed as part of the work on Bill 15 (December 2021). Considering that these representatives were sidelined when the work on Bill 99, *Act to amend the Youth Protection Act and other provisions*,<sup>104</sup> was being carried out, they feel that their inclusion this time constitutes progress.
- In March 2023, a committee on implementing the legislative changes brought about by the *Act to amend the Youth Protection Act and other legislative provisions* concerning Indigenous children, youth and families began its work. Decisions regarding the committee's methods and procedures were made by consulting First Nations and Inuit representatives who had been appointed by Indigenous authorities.

Although these forums for dialogue can be positive, First Nations and Inuit members do not feel that they are sufficient to ensure that decisions are taken on a nation-to-nation basis. The lack of a real spirit of collaboration is reflected in the following:

- Invitations to take part in meetings with pre-established agendas, where subjects important to the Indigenous representatives concerned, such as self-determination, are refused;
- Action priorities identified without prior discussion with the Indigenous representatives;
- Documents for comment provided one day before meetings;
- Indigenous representatives' point of view discarded without explanation;
- Lack of time and space to address substantive issues when divergent visions would require more in-depth knowledge sharing (culture, values, principles, realities, concerns, systemic issues, research, etc.).

#### ACQUIRE THE RESOURCES AND EXPERTISE FOR URGENTLY ADDRESSING INDIGENOUS YOUTH PROTECTION ISSUES

According to MSSS, several of CERP's calls for action have been integrated into DGDBEPJ projects and priorities, as evidenced by the recent amendments to YPA. As a result, the situation of First Nations and Inuit children, youth and families is, for the most part, dealt with in the same way as all other youth protection issues in Québec.

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104 National Assembly, Bill 99, *An Act to amend the Youth Protection Act and other legislative provisions* (2016).

#### **EXAMPLES:**

- Projected work to increase post-placement services (Call for Action No. 133) is provincial in scope, but, so far, nothing concrete is planned for First Nations and Inuit youth in particular.
- The same situation exists concerning the need to increase the number of spaces in youth rehabilitation centres in conventional settings (Call for Action No. 131). The idea is to establish strategies to stem the overflow in rehabilitation centres for youth in difficulty throughout Québec. However, there is nothing to suggest that the nations covered by an agreement will benefit from these investments. To date, no additional action has been taken to consider the specific needs of young people in these communities, especially, how important it is for them not to have to move away.

According to MSSS, one of the main obstacles to implementing the calls for action is the sheer scale of the youth protection resources to be deployed throughout Québec. At present, DGBEPJ does not have a team dedicated specifically to Indigenous issues. However, MSSS maintains that positions dedicated to Indigenous issues will eventually be created.

The Québec Ombudsman believes that MSSS must develop expertise with the necessary leverage within DGBEPJ. By deploying resources consistent with the needs and emergencies identified by the Viens Commission, MSSS would be able to make Indigenous issues a priority. It could then work with First Nations and Inuit representatives to tackle the causes of discrimination head on and to counter the persistent over-representation of Indigenous children in the youth protection system.<sup>105</sup>

#### **AIM FOR CONCRETE AND LASTING OUTCOMES BY FOCUSING ON SELF-DETERMINATION, AS QUICKLY AS POSSIBLE**

MSSS says it has undertaken work in the area of youth protection in an Indigenous context that contributes to implementing the Viens Commission's calls for action. However, the concrete results of these initiatives are slow to appear.

#### **EXAMPLES:**

- MSSS cites initiatives related to the reference framework on life projects for Indigenous children in response to the implementation of several calls for action concerning youth protection. These include Call for Action No. 113, which recommends that historical, social and cultural factors relating to First Nations and Inuit be taken into account in youth protection decision-making and evaluation. However, after nearly ten years, this framework has still not taken effect.

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105 CERP Final Report (2019), cited above, footnote 3, pp. 408 to 442.

- SRPNI has included support for community autonomy in child welfare as a priority in its two First Nations and Inuit government action plans.<sup>106</sup> However, MSSS has not engaged in any concrete initiative to implement the calls for action (Nos. 135, 136 and 137) that would promote this autonomy, even though this is also a Viens Commission priority.
- In addition, when lawmakers drafted the *Act to amend the Youth Protection Act and other legislative provisions*, they did not seize the opportunity to make legislative changes to YPA in line with these calls for action and to recognize First Nations and Inuit competence and autonomy in matters of youth protection. This recognition was one of the recommendations in the Laurent Commission report<sup>107</sup> and several briefs<sup>108</sup> submitted during the work on this bill. YPA was not amended accordingly, even though the inherent right to self-determination is enshrined in "federal Bill C-92" and UNDRIP.<sup>109</sup>

When it comes to First Nations and Inuit autonomy and self-determination in youth protection, the situation has remained unchanged since the Viens Commission report was tabled. Only the Atikamekw Authority Intervention System (AAIS) has a specific youth protection regime under section 131.20 of YPA (formerly 37.5). It is important to note that the negotiations and preparatory stages for implementing this special regime lasted 16 years. MSSS specifies that since "federal Bill C-92," the communities have not made any new requests for agreements under section 131.20, and that this is probably related to the ongoing legal challenge of "federal Bill C-92."

MSSS nonetheless says that it is there to support communities that wish to develop their autonomy in youth protection matters, provided actions remain within the existing legislative framework in Québec. However, as the Viens Commission showed, "the requirements imposed [under YPA] are hard—even impossible—for the communities to meet."<sup>110</sup> The current framework for self-determination under YPA is seen by many as an obstacle to their desire for autonomy, rather than an opportunity.

As a result, although some initiatives are relevant to implementing several calls for action, because it has taken so long to develop them, so far they have not yielded concrete youth protection changes for children, young people and families. This also raises concerns about the timetable for future actions. MSSS cites issues such as the ongoing legal challenge and COVID-19 to explain the delays. However, it does not propose a specific plan to prevent these issues from having a negative impact on the main people involved.

106 Measure 1.1.26: "Reach agreements to establish a specific Aboriginal youth protection scheme." In *2017-2022 Do More, Do Better - Government Action Plan for the Social and Cultural Development of the First Nations and Inuit*, 2017; and Measure 3.6: "Help communities become autonomous in the area of child and youth protection by supporting and promoting the signing and implementing of agreements (MSSS)", in 2022-2027 FNI Action Plan, cited above, footnote 7.

107 Laurent final report (2021), cited above, footnote 20, p. 297.

108 See in particular: AFNQL and FNQLHSSC, *Pour une loi digne de nos enfants*, [joint memoir on Bill 15, presented to the National Assembly's Committee on Health and Social Services], February 2022; GUAY, Christiane, ELLINGTON, Lisa and VOLLANT, Nadine. *Projet de loi n°15, Loi modifiant la Loi sur la protection de la jeunesse et d'autres dispositions législatives* [joint brief on Bill 15, presented to the National Assembly's Committee on Health and Social Services], February 2022; and Première Nation Innu de Nutashkuan and Centre de santé et de services sociaux Tshukuminu Kanani. *Mémoire sur le projet de loi n°15, Loi modifiant la Loi sur la protection de la jeunesse et d'autres dispositions législatives*, [joint brief on Bill 15, presented to the National Assembly's Committee on Health and Social Services], February 2022.

109 UNDRIP, cited above, footnote 25, art. 3: "Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." The principle of section 18 a) of "federal Bill C-92" consists of affirming the inherent right to self-government, which includes jurisdiction in child and family services.

110 CERP Final Report (2019), cited above, footnote 3, p. 457.

## QUICKLY IMPLEMENT LEGISLATIVE CHANGES IN THE SPIRIT OF THE VIENS COMMISSION

In recent years, YPA has been amended to give greater recognition to the culture, rights and realities of First Nations and Inuit children, youth, families and communities. The *Act to amend the Youth Protection Act and other legislative provisions* makes major legislative changes to YPA in line with CERP's calls for action and the Laurent Commission's recommendations. However, the Viens Commission demonstrated that there are pitfalls that compromise the achievement of YPA objectives in an Indigenous context when attempts are made to implement the legislative framework on the ground. These issues must be taken into consideration if the intentions of the Viens Commission's calls for action are to be fulfilled.

### EXAMPLES:

- DYPs are not inclined to change the way they operate and show little interest in differentiated application of the Act.<sup>111</sup>
- Public service workers' lack of knowledge about First Nations and Inuit prevents them from "adapting" their practices.<sup>112</sup>
- Those involved in the youth protection system adopt a purely formal concept of equality, even though we now know that a one-size-fits-all approach can have discriminatory effects.<sup>113</sup>

In response to these issues, MSSS is working with Indigenous representatives and experts in the field to develop new tools to support practice. The Tikinagan training course, the life projects reference framework, creation of the committee on implementing the legislative amendments made by the *Act to amend the Youth Protection Act and other legislative provisions*, and the funding for evaluating and developing clinical assessment tools (Nos. 115 and 116) are some of these instruments. However, we note that these initiatives have not yet been put into practice or that there is no information for assessing their real impact at this time. For example, although highly recommended and designed in collaboration with UQAT, Tikinagan training is not compulsory for all youth protection staff and is not part of an ongoing training plan with objectives and indicators for measuring its effects. This training therefore only partly meets the aims of Calls for Action Nos. 25 and 26.

That said, the information collected shows that there is a will to improve the situation but that it is insufficient to circumvent the obstacles stemming from application of the legislative framework. In addition, there is no mechanism for assessing the impact of the initiatives undertaken. Considerable efforts and resources are needed because the changes involve not only applying YPA differently, but also interpreting fundamental ideological differences in the way education, parenting, care, social intervention practices and the transmission of values are conceived.<sup>114</sup> The purpose is to ensure culturally safe services and to prevent discriminatory effects for the children, youth and families

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111 *Ibid.*, pp. 409 and 416.

112 *Ibid.*, p. 417.

113 *Loc. cit.* Also see footnote 91.

114 *Ibid.*, p. 416.

concerned.<sup>115</sup> As a result, MSSS must redefine services, methods, and tools, and create follow-up mechanisms for validating changes in practice.

**EXAMPLE:**

With the *Act to amend the Youth Protection Act and other legislative provisions*, lawmakers built the notion of care consistent with Indigenous traditions into YPA as an intervention solution, but YPD workers must be aware of these traditions. While this amendment is a step towards fulfilling Call for Action No. 125, which called for recognition and support for families in their use of cultural healing approaches, several barriers continue to stand in the way of First Nations and Inuit families.

- First, not all families know that they have the right to propose alternative interventions to put a halt to situations of endangerment. In order for more of them to be aware of this, youth protection workers would have to feel responsible for informing them.
- Moreover, First Nations and Inuit families still do not have additional means and resources to learn about and assert their rights in the context of youth protection, as recommended in Calls for Action Nos. 122 and 123.
- In addition, the Viens Commission hearings showed that interventions based on Indigenous traditions are rarely considered valid solutions by the courts or DYPs.<sup>116</sup>

As a result, despite YPA's openness when it comes to recognizing cultural healing approaches, the means for families to take advantage of them remain insufficient.

To improve First Nations and Inuit families', communities' and organizations' trust in services, the youth protection system must be fully aware of the real obstacles to these families exercising their rights and must take a more proactive role in countering these impediments. Indigenous representatives also criticize the fact that legislative changes are not systematically accompanied by requisite funding and support from the provincial and federal governments, which means that the representatives must negotiate with public authorities to get what they require.

**EXAMPLE:**

Although Indigenous representatives agree with the legislative changes made by the *Act to amend the Civil Code and other legislative provisions (2016)* regarding the recognition of specific Indigenous realities in terms of customary adoption, no funding is provided to support communities with this transition.

Because a negotiation phase had been added, there are delays in implementing these changes. This issue particularly concerns inclusion of a requirement about family councils

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<sup>115</sup> *Ibid.*, pp. 408 and 420.

<sup>116</sup> *Ibid.*, p. 439.

(Call for Action No. 110), since First Nations and Inuit communities are responsible for offering such services.

The changes made by the *Act to amend the Youth Protection Act and other legislative provisions* do not respond exactly to the calls for action that recommend legislative changes to YPA in terms of wording and intentions, except for Call for Action No. 117. Furthermore, several sections added to YPA in the Indigenous context are still not in force.

**EXAMPLE:**

Call for Action No. 108 requests that maximum placement periods not apply to Indigenous children. The *Act to amend the Youth Protection Act and other legislative provisions* includes the possibility of such an exemption, provided that a family council is established. The Viens Commission found that attachment theory is not in tune with First Nations and Inuit realities. As a result, this theory is inadequate to meet Indigenous children's interests. It was this very finding that justified the request for an unconditional exemption from maximum placement periods. The decision to make the exemption conditional denotes a failure to recognize that First Nations and Inuit have the expertise for finding their own solutions. It should be noted that to date, section 131.12, although assented to, is still not in force and will become so by regulation. There is no indication as to when this change will be made.

MSSS states that it worked with Indigenous representatives on Bill 15 (December 2021) to recommend legislative amendments that reflect their needs, but that the final decision rests with the legislator. It maintains that several sections added to YPA in the chapter on specific Indigenous provisions are not yet in force because it wants to work with First Nations and Inuit representatives beforehand. So that the transition is smooth and the right tools and resources are marshalled, this cooperation can be achieved by means of the special working committee on implementing the legislative amendments made by the *Act to amend the Youth Protection Act and other legislative provisions*.

The Québec Ombudsman recognizes these efforts and is aware of the scope of the issues at stake. The rate at which work occurs must factor in differing realities. However, as demonstrated earlier, major delays have postponed implementation of the Viens Commission's calls for action. This has a direct impact on Indigenous children, youth and families. The Québec Ombudsman encourages MSSS to deploy the resources needed to achieve targets as soon as possible.

**BASE YOUTH PROTECTION REFORMS ON GUIDELINES AIMED AT BRINGING ABOUT SYSTEMIC CHANGE**

To date, MSSS has not issued any global directives to implement the Viens Commission's calls for action in youth protection. DGDPEJ recognizes the importance of taking the specific characteristics of each community into account in shaping its actions and priorities. The Québec Ombudsman applauds this. However, too often this approach translates into limited actions. Taking specific characteristics into account should not prevent MSSS from ensuring that the network functions properly, which is its responsibility. Nor should it be an impediment to progress on structural projects determined by the Indigenous representatives themselves, particularly through the Viens Commission's calls for action. This failure to provide guidelines perpetuates circumscribed actions in the youth protection sector and slows down systemic change.

#### **EXAMPLES:**

- Call for Action No. 112 requires MSSS to share new youth protection guidelines and standards with all the professionals responsible for such cases in First Nations and Inuit communities in real time. Despite improved communications between the Indigenous authorities and MSSS, there have been no directives to ensure that each institution disseminates the new standards and directives to its staff and to youth protection organizations in the region's Indigenous communities.
- MSSS has not issued any specific directives requiring institutions to provide immediate and unrestricted financial support and assistance to communities wishing to take charge of youth protection services under YPA's section 131.20 (formerly 37.5), as required in Call for Action No. 137. MSSS says it is involved in pilot projects, but this involvement is limited and is not supported by overall provisions that would benefit all Indigenous communities.

### **ENSURE FOLLOW-UP AND CONSISTENCY IN IMPLEMENTING CALLS FOR ACTION CONCERNING YOUTH PROTECTION IN INDIGENOUS COMMUNITIES**

MSSS knows very little about the impact that certain calls for action are having on youth protection. This is because it relies on CIUSSSs and CISSSSs to identify the needs of nations not covered by an agreement and the means to meet them. Similarly, MSSS cites Inuit, Cree (Eeyou/Eenou) and Naskapi autonomy to explain that it is unable to report on progress in implementing youth protection calls for action for the nations covered by an agreement.

#### **EXAMPLES:**

- Calls for Action Nos. 111 and 135 require that agreements be signed between First Nations and Inuit authorities and health and social services network institutions. However, due to a lack of information, MSSS cannot determine what progress is being made throughout the territory.
- The departmental guidelines for the 2017-2022 service program for youth in difficulty cover services for young people from early childhood to adulthood. The purpose of these guidelines is to support Indigenous communities, with or without agreements, in developing local social services (Nos. 127 and 128). Although MSSS says that it supports and adapts local services for Indigenous communities, the information it collects on the services and funding available for each community, based on geographic, climatic and social realities, including population growth, is scanty. This lack of data makes it impossible to ensure equal access to services across the province and to confirm that efforts are contributing to a decline in the number of youth protection cases.

The need to assess work progress and gather information about it is even more pressing given that many communities do not have all the levers they need to implement them. Closer monitoring would make it possible to respond to their specific needs in order to achieve true real equality in accessing public services. MSSS would also ensure that it fully assumes its population-based responsibility, as explained in the section on the calls

for action concerning health and social services. In short, while respecting the autonomy of HSSN institutions and of nations covered by an agreement, MSSS should be able to report on progress in implementing the calls for action and, in so doing, promote consistency in this sector.

Moreover, MSSS has little information on the realities of Indigenous children and families in urban areas. This is all the more worrying given that more than half of First Nations and Inuit people in Quebec now live in cities.<sup>117</sup> This lack of information is indicative of a lack of cooperation between MSSS and urban institutions, resulting, yet again, in a lack of consistency in all the actions by youth protection caseworkers. Progress on Calls for Action Nos. 4, 5, 6, 111 and 126 would increase departments' and agencies' ability to pinpoint needs for the entire territory and identify the resources that would meet these needs.

Interdepartmental cooperation in implementing calls for action in youth protection is the purview of both MSSS and MJQ, which claim to hold ad hoc discussions. However, as far as the Québec Ombudsman knows, no specific collaborative approach or work plan has been established to address judicialization issues in connection with youth protection within the Indigenous context. The Québec Ombudsman has no information on how the two departments work with Indigenous representatives on these issues. This situation narrows the spectrum of the interventions.

## INTERGOVERNMENTAL RELATIONS IN YOUTH PROTECTION AND THEIR IMPACT ON THE LIVES OF INDIGENOUS FAMILIES AND COMMUNITIES

### Federal legislation contested by the Québec government

Since the Viens Commission report was tabled, the *Act respecting First Nations, Inuit and Métis children, youth and families* ("federal Bill C-92") came into force on January 1, 2020.

The Québec government has been challenging this federal legislation since it received Royal Assent on June 21, 2019. To do so, it used the reference procedure to obtain a decision on constitutional issues from the Court of Appeal, which confirmed that the Act is constitutional, except for sections 21 and 22(3), which were invalidated.<sup>118</sup> The constitutional debate is now before the Supreme Court of Canada. In the meantime, "federal Bill C-92" continues to apply in Québec despite the court challenge.

This law is based on two key ideas:

- Creating national standards or principles (sections 9 to 17) concerning service delivery to Indigenous children and families. These principles apply regardless of the context in which the services are provided.
- Recognizing Indigenous peoples' right to self-government and establishing a mechanism to ensure that this right is truly exercised in the context of child and family services.<sup>119</sup>

Currently, several communities are turning to "federal Bill C-92" instead of using section 131.20 (formerly 37.5) of the *Youth Protection Act* (YPA) to exercise their autonomy. Nine communities in Québec have sent the provincial government and the Minister of Indigenous Services a notice of intent to exercise their legislative jurisdiction over child

<sup>117</sup> Laurent final report (2021), cited above, footnote 20, p. 288.

<sup>118</sup> *Reference to the Court of Appeal of Québec in relation with the Act respecting First Nations, Inuit and Métis children, youth and families* (2022), cited above, footnote 11, par. 571.

<sup>119</sup> *Ibid.*, par. 25.



and family services using the new provisions of "federal Bill C-92."<sup>120</sup> In addition, one community, Atikamekw of Opitciwan, has submitted a request to enter into a coordination agreement concerning exercise of its legislative jurisdiction.<sup>121</sup>

To put it plainly, these Indigenous communities want to use "federal Bill C-92" to demonstrate their autonomy in youth protection matters. This law recognizes their inherent right to self-determination, which means that they can create their own youth protection system without having to answer to the Québec government. In fact, when they avail themselves of section 131.20 (formerly 37.5) of the YPA, First Nations and Inuit communities are more limited because they must abide by the Act's general principles and comply with all MSSS requirements.

### **Issues surrounding the implementation of "federal Bill C-92"**

The Québec government and Indigenous authorities have very different perceptions of the government's challenge to "federal Bill C-92." Their understanding of each other's roles and responsibilities in this new context also differs. For many Indigenous representatives, the Québec government's legal challenge is seen as going against their right to self-determination and their self-government in assuming control of their youth protection services, since the primary goal of this legislation is to support the exercise of that right. For its part, the Québec government maintains that it is defending its constitutional jurisdictions and that the challenge has never had anything to do with First Nations and Inuit autonomy. To illustrate the extent of its commitment to respecting their autonomy, it points out that it has not sought an injunction to suspend application of the law in Québec.

MSSS affirms that, despite the ongoing challenge, it supports the CIUSSS involved in the transition to the *Loi de la Protection Sociale atikamekw d'Opitciwan* (LPSAO).<sup>122</sup> It claims to have coordinated the implementation of changes arising from application of the law (legal issues) and to have provided funding for the position of liaison officer so that the transition could be done smoothly. MSSS also said that it participated in the coordination committee with Indigenous and ISC representatives, but on condition that it act as an observer. During the legal challenge, MSSS has limited its involvement to the issues around "federal Bill C-92." This position is perceived as a lack of support for Indigenous communities and a lack of willingness to support them in their process of self-determination. Indigenous representatives deplore the harmful consequences this has on the lives of children and families. A case in point, they say, is the unresolved jurisdictional issues concerning children from the Opitciwan community living in urban areas.<sup>123</sup>

In the course of its work, the Québec Ombudsman noted that the situation surrounding "federal Bill C-92" has a direct impact on the implementation of the Viens Commission's calls for action. Several projects are on hold pending the Supreme Court decision. For example, while Indigenous representatives want to incorporate "federal Bill C-92's" minimum standards into the *Cadre de référence sur les projets de vie*, despite ten years' collaboration, MSSS is refusing to continue this work for the time being. The reference framework is an important practical support tool for implementing several calls for

120 Government of Canada, "Notices and requests related to An Act respecting First Nations, Inuit and Métis children, youth and families," Indigenous Services Canada, [website], consulted on July 6, 2023.

121 *Loc. cit.*

122 This is the first Indigenous community in Québec to have its own law under "federal Bill C-92."

123 A case in point is Justice Doris Thibault's ruling declining the jurisdiction of the Cour du Québec (Chambre de la jeunesse) in a youth protection file concerning a child who is a member of the Atikamekw d'Opitciwan community, but who does not live there. See: *Protection de la jeunesse – 225102, 2022 QCCQ 6353*. Québec appealed this decision before the Superior Court. The appeal hearing was held in Chicoutimi on May 17 and 18, 2023. The judge suspended her deliberations pending the Supreme Court judgment in appeal of this Reference. All the parties will be invited to submit representations after this Supreme Court decision has been rendered. Meanwhile, the Cour du Québec decision applies and the child's and the family's situation is in the hands of Atikamekw services and is governed by LPSAO.

action. However, until it is actually in place, the Québec Ombudsman cannot consider it a concrete step forward.

The Québec Ombudsman also wonders about the issues raised by the harmonization of these two laws in the practice of youth protection professionals in the Indigenous context. The national standards enshrined in "federal Bill C-92"<sup>124</sup> apply throughout Québec and must be used by all DYPs, youth protection institutions and courts.<sup>125</sup> For its part, MSSS has not taken the necessary steps to inform, train and equip its staff concerning the national standards of the federal act, even though it is applied by the courts.

### 3.6 Follow-up mechanisms (Calls for Action Nos. 138 to 142)

The calls for action concerning the implementation of monitoring mechanisms do not require such an in-depth analysis, so they are briefly analyzed in the table in Appendix 2.

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<sup>124</sup> "Federal Bill C-92," cited above, footnote 10, s. 9-17.

<sup>125</sup> This normative framework appears to be more comprehensive than YPA, despite the changes made by Bill 15 following the coming into force of "federal Bill C-92." For example, the principle of cultural continuity is enshrined in YPA, but the notion is not defined. See: *Youth Protection Act*, cited above footnote 102, ss. 131.1, 131.3, 131.8 and 131.23. For its part, s. 9(2) of "federal Bill C-92" provides a definition: b) "the transmission of the languages, cultures, practices, customs, traditions, ceremonies and knowledge of Indigenous peoples is integral to cultural continuity" and d) "child and family services provided in relation to an Indigenous child are to be provided in a manner that does not contribute to the assimilation of the Indigenous group, community or people to which the child belongs or to the destruction of the culture of that Indigenous group, community or people."



## 4 OVERALL FINDINGS

After analyzing all the initiatives by the various departments and agencies in response to the Viens Commission's 142 calls for action, the Québec Ombudsman has concluded that the government apparatus as a whole must adopt six key principles in its broad-based follow-up to the various calls to action.

### **ADOPT AN OVERALL STRATEGY FOR IMPLEMENTING CALLS FOR ACTION AND IMPROVING INTERDEPARTMENTAL COORDINATION**

SRPNI's primary responsibility is to liaise between Indigenous people and the Québec government. Its mission is to coordinate all government action on Indigenous issues and ensure that the policies, interventions, initiatives and positions of the various Québec departments and agencies involved in this action are consistent.<sup>126</sup> To fulfil its mandate, SRPNI holds bilateral meetings with the departments and agencies. It also ensures inter-departmental cooperation through the coordination committee on implementing the 2017-2022 FNI Action Plan and the 2022-2027 FNI Action Plan.

SRPNI has no reporting relationship with the departments and agencies involved. It states that it ensures that Québec government actions are coherent, while respecting departments' and Indigenous authorities' autonomy. As SRPNI sees it, it cannot dictate priorities and policy thrusts, although it strongly encourages the departments and agencies to undertake certain actions because they are in the best position to do so. It takes the same approach regarding Viens Commission follow-up. As a result, it has not issued any directives that would coerce the organizations involved in implementing the Viens Commission's calls for action. Nevertheless, SRPNI has prompted departments and agencies to propose measures that respond to Viens Commission's calls for action and NIMMIWG's calls for justice as part of the 2022-2027 FNI Action Plan. The latter presents commissions of enquiry reports as "fundamentally important markers," without, however, granting them a cross-disciplinary scope or referring to them specifically in the wording of the measures. In addition, SRPNI follows up with departments and agencies by collecting information that it compiles in an annual table on its website.

According to the data collected, several departments and agencies, as well as SRPNI itself, do not have the same perception of its role in terms of what it is able to accomplish in implementing the Viens Commission's calls for action.

SRPNI says, given current workforce shortages and that implementing the Viens Commission's calls for action is only a portion of the government work carried out in Indigenous communities, it would be counterproductive to impose a structure or global plan on Indigenous affairs resources within the departments. For their part, some departments and agencies say they have a good relationship with SRPNI but expected it to provide more sustained leadership in promoting a shared vision and concerted desire to implement the calls for action. The departments and agencies do not consider themselves responsible for establishing global directives to ensure optimal coordination between them. This translates into fragmented interventions.

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<sup>126</sup> Government of Québec, "Secrétariat aux relations avec les Premières Nations: Mission and orientations of the Secrétariat," Services Québec, [website] consulted on July 6, 2023.

Generally speaking, they consider that:

- It is difficult to obtain information from their government counterparts about their Viens Commission follow-up work, beyond the existing forums and thematic committees;
- It would be beneficial for SRPNI to be more transparent about, among other things, the rationale behind the choice of measures in the 2022-2027 FNI Action Plan in terms of the selection criteria communicated to departments and agencies;
- There has been no public reporting on 2017-2022 FNI Action Plan outcomes, even though the 2022-2027 edition has already replaced its predecessor.

Although the Québec Ombudsman acknowledges the reasons cited by SRPNI for not adopting a plan or structure for comprehensive and coherent implementation of the calls for action, it believes that such a framework would be necessary if more substantial progress is to occur, especially for the cross-disciplinary calls for action, for which SRPNI is primarily responsible. While recognizing that the principle of departmental autonomy is important, it would like to point out that, in this case, it seems to be causing fragmented implementation of the initiatives and lack of cohesion. In addition, the preferred bilateral operating format seems insufficient to implement the calls for action requiring inter-departmental consultation. Finally, although, in the past, two prioritization exercises with Indigenous representatives were disappointing, the information collected showed that this prioritization exercise remains necessary to respond to CERP's calls for action both globally, particularly through initiatives related to cross-disciplinary calls for action, and more specifically, within each of the service sectors concerned.

The Québec Ombudsman is sensitive to the fact that many people say there is a lack of resources. It is also aware that the government will have to make an effort to provide the institutions concerned with the instruments they need. In addition, in the Québec Ombudsman's opinion, delays in implementing cross-disciplinary calls are where shortcomings in interdepartmental coordination are most glaring. These delays highlight the need to ascribe greater importance to these issues. As it now stands, each department or agency interprets these calls for action as they see fit and as they understand them, with no overall guidelines that would make it possible to turn things around quickly if necessary.

So that these snags in interdepartmental coordination are prevented, the Québec Ombudsman encourages the government to provide SRPNI with the resources it needs for adopting a strategy for implementing the Viens Commission's calls for action. One of the things this strategy would have to specify is departments' level of responsibility (e.g. leader, collaborator, etc.) for the cross-disciplinary calls for action. It also reiterates the importance of consulting all Indigenous representatives and authorities prior to drafting such a strategy so that their priorities are known and so as to determine the order in which the calls for action should be implemented.

## **INCREASE COHERENCE BETWEEN COMMITMENTS AND ACTIONS CONCERNING FIRST NATIONS AND INUIT**

In this report, the Québec Ombudsman has sought to present the achievements related to the Viens Commission's calls for action and to highlight several Québec government initiatives that demonstrate its commitment to First Nations and Inuit well-being. This includes the six fields of action in the Government Action Plan for Social and Cultural Well-Being of the First Nations and Inuit 2022-2027. The Québec Ombudsman also salutes the government's 2019 decision to apologize to Indigenous peoples for the harm caused in particular by its laws and policies, and its adoption of a motion recognizing UNDRIP. These symbolic actions are essential to restoring trust between Indigenous peoples and the

Québec government. The March 2021 creation of a joint political table between AFNQL and the Québec government, with an aim to establish a new era of nation-to-nation relations, should also be highlighted.

Despite this progress, the challenge of assuring a better fit between commitments and actions remains. As explained in the health and social services section, the government has been slow to adopt principles that show that there has been a paradigm shift in government accountability towards Indigenous citizens (e.g. Jordan's Principle). Moreover, as noted in the cross-disciplinary calls for action section, the government insists on moving forward with bills that, among other things, complicate First Nations and Inuit exercise of language rights.

In addition, Québec government decisions and initiatives aimed at defending interests it deems legitimate are viewed quite differently by the representatives of some Indigenous organizations. A case in point is the legal challenges reported in the police services and youth protection sections. In fact, in the Indigenous representatives' opinion, these actions are tantamount to the government's disavowal of its own commitments to support First Nations and Inuit self-determination.

In short, there is a disconnect between the Québec government's commitments in principle and the actions to implement them. Indigenous representatives are aware of this, and the relationship they have with their Québec counterparts cannot help but be affected.

All these examples illustrate the scale of the challenge to truly recognize First Nations and Inuit rights and special status. The stakes are high for the Québec government: how can it reconcile its desire to support First Nations and Inuit self-determination with its Canadian intergovernmental affairs policies?

In the Québec Ombudsman's opinion, it is important for government representatives to be sensitive to how their decisions and choices are perceived by Indigenous representatives. Long-term changes to these perceptions will only be possible if there is tangible and in-depth transformation of public services, and if the government's commitments to principles are fully integrated into the various standards and structures governing public service delivery.

## **GENERATE SYSTEMIC CHANGE**

The Québec government is helping to prevent discrimination against First Nations and Inuit through various initiatives. Examples include cultural safety in the health and social services network, legal support and community intervention programs for vulnerable people, and training for public service staff.

However, the actions advocated by the Québec government rarely go as far as many calls for action require. This would mean reshaping the way services are organized, redefining intervention and assessment approaches, and rethinking intake and care practices through genuine and systematic consideration of the issues experienced by First Nations and Inuit. Generating systemic change is not simply a matter of adapting public services to better serve First Nations and Inuit. Rather, it means rethinking these services, and even rebuilding them, based on the needs expressed by Indigenous nations and communities. As it now stands, **Québec government actions still do not reflect a tangible desire to overhaul public services so that they meet Indigenous citizens' needs and aspirations.**

As mentioned earlier, Indigenous organizations can see and feel this lack of political will because they are rarely invited, from project inception, to be on committees focusing on issues that concern them. Although they would be best placed to identify these commit-

tees' priorities early in the process, instead they are asked for their opinion on proposals that are a done deal for all intents and purposes.

The government's circumscribed commitment to reviewing its way of doing things can also be seen in the fact that the voices, perspectives and demands of Indigenous representatives are almost systematically sidelined when it comes to implementing initiatives that will have a major impact on society, such as reforming the legislative framework. For example, this occurred during the last parliamentary session (winter-spring 2023), when bills were tabled on police services, health information, the efficiency of the health system and, most recently, cultural safety.<sup>127</sup> The Indigenous representatives concerned were neither approached during the drafting process nor informed of the bills' content during their ongoing work with the departments.<sup>128</sup> Furthermore, once the bills had been introduced, the Indigenous representatives did not always have the opportunity to express their views during special consultations and at public hearings, or they were not given enough time to draft briefs reflecting their positions.

In addition, government funding for various initiatives is often provided under action plans that rarely have a timeframe of more than five years. Although it abides by the administrative rules in force and the principles of rigorous use of the public funds, this timeframe is proving ill-suited to First Nations and Inuit needs and realities. This tends to weaken resources and organizations that receive funding. As a result, this timeframe could compromise government intervention sustainability, which is essential if lasting, systemic changes are to be introduced.

Systemic change is also hampered by the fact that the calls for action requiring tripartite consultation with Indigenous authorities and the two levels of government have not yet been implemented. There are different positions on this issue. Indigenous authorities argue that no discussion between the levels of government should take place without them being there. The federal government is appealing to the Québec government's population-based responsibility, in particular towards people living in communities not covered by an agreement. Québec departments are defending the province's constitutional powers and are keen not to make the federal government less responsible for funding services. In this complex context, discussions are proceeding at a snail's pace and the status quo is delaying the desired systemic changes.

Among the various pitfalls, we note that the Québec government:

- Tends to focus on resolving specific issues without questioning the way the system works;
- Fails in its duty to consult the main representatives and authorities at the project design stage;
- Does not involve Indigenous representatives sufficiently, upstream of key initiatives, as people with a distinct voice that no government representative can replace;
- Accepts the status quo with regard to communities not covered by an agreement;

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<sup>127</sup> Bill 32, *An Act to establish the cultural safety approach within the health and social services network*, introduced on June 9, 2023, on the very last day of the parliamentary session, was contested by certain Indigenous representatives. See: LÉVESQUE, Fanny. "Sécurisation culturelle des Premières Nations : Québec dépose son projet de loi", *La Presse*, updated on June 9, 2023.

<sup>128</sup> Bill 14 on police reform speaks volumes in this respect. The public security technical committee created by AFNQL and ADPPNIQ was not consulted when the most recent *Bill 14, An Act to amend various provisions relating to public security and to enact the Act to assist in locating missing persons* (introduced on March 15, 2023) was being drafted, even though it had participated in the work surrounding its precedent, *Bill 18*, introduced on December 8, 2021, that had the same title but that was not adopted.

- Is hesitant to fully commit to combatting systemic discrimination within Québec's public services and, in turn, guaranteeing real equality for First Nations and Inuit compared to the general population.

It should also be noted that the Government of Québec, referring to the Viens Commission report, underlines "some of the deficiencies in the delivery of services for Indigenous people by the Québec state."<sup>129</sup> However, the actions that have been put in place do not address the Commission's main finding, namely, that First Nations and Inuit are victims of systemic discrimination in interacting with public services.

## **IMPROVE COLLABORATION AND CO-BUILD SOLUTIONS WITH INDIGENOUS REPRESENTATIVES**

The previous sections have shown that, as a rule, government departments and agencies work in conjunction with Indigenous communities when it comes to developing programs or projects concerning the latter. Consequently, it is common for departments and agencies to designate a person, team or directorate dedicated to First Nations and Inuit issues within their own ranks, and to form committees or tables to bring together government department and agency representatives and First Nations and Inuit organizations and institutions.<sup>130</sup>

Such mechanisms can facilitate discussion on follow-up to the Viens Commission's calls for action. Generally, Indigenous representatives value them and these instruments can foster lasting relationships of trust with government bodies. Nevertheless, criticisms of the collaboration formats that the departments favour merit reporting.

The first irritant that has been cited repeatedly concerns the tight turn-around time that departmental representatives give First Nations and Inuit organizations to react to the proposals submitted. Feedback deadlines are deemed insufficient for optimal participation. Such criticisms may concern project proposals that call for comment at a meeting with only 24 hours' notice, as well as parliamentary consultations on draft legislation, as discussed in the preceding pages. For their part, department and agency representatives have reported that it is often difficult to reach Indigenous representatives to obtain the reactions and information requested from them within the prescribed deadlines.

The second obstacle to collaboration concerns the availability of information and relevant documents in English. Representatives of First Nations and Inuit organizations whose working language is English have reported that they have been invited by the Québec government to participate in tables or consultations without being provided with translation services and the necessary documentation in English. Unsurprisingly, as a result, these representatives consider they cannot make a fruitful contribution to committee work.

The third element relates to the length and scope of the work required to resolve issues affecting First Nations and Inuit. The example given in health and social services concerning the recommendations of the committee for the application in Indigenous communities of Bill 21, *Act to amend the Professional Code and other legislative provisions in the field of mental health and human relations*, clearly reflects this observation. The fact

<sup>129</sup> 2022-2027 FNI Action Plan, cited above, footnote 7, p. 3.

<sup>130</sup> For example, seven local tables on access to urban services for Indigenous people have been formed in collaboration with the Regroupement des centres d'amitié autochtones du Québec (RCAAQ). Operational youth protection committees have been set up. Political and technical tables in health and social services, public safety and economic development (economic forums) have been created to forge ties between AFNQL-mandated organizations and the bodies concerned (MSSS, MSP, SRPNI).



that certain committees' work and discussions drag on without generating structural and concrete changes is detrimental to establishing fruitful relationships overall.

The fourth issue, which echoes the previous observation on the need to generate systemic change, concerns the lack of consideration of the harmful effects of legislative projects on First Nations and Inuit identity aspirations. This was particularly the case when the *Charter of the French Language* was amended, as discussed in the analysis of the cross-disciplinary calls for action.

The final element hindering collaboration is the fact that some departmental interlocutors fail to understand First Nations and Inuit values, rights, realities and cultures. This hampers the consideration of issues and the development of relevant solutions to resolve them. While it has not been mentioned in this report thus far, it was reported that people with only rudimentary knowledge of the *James Bay and Northern Quebec Agreement* and the *Northeastern Quebec Agreement* are involved in consultation work with the nations covered by them. Without a thorough knowledge of the basic legal framework governing relations between the Québec government and these nations, it stands to reason that work requiring Eeyou/Eenou, Inuit and Naskapi government participation is slowed down and made more complex.

In short, CERP follow-up work shows that although collaboration between all the departments consulted and First Nations and Inuit organizations and communities seems to be more frequent than it used to be, it is not always optimal. To improve the quality of these collaborations, the Québec Ombudsman invites government departments and agencies to ask Indigenous partners for their opinion on the conditions that would foster collaboration and to be creative in taking this information into account.

### **UNDERSTAND THE PURPOSE OF CALLS FOR ACTION THAT ARE SOMETIMES WORDED IMPRECISELY OR DEEMED UNREALISTIC**

As mentioned in the Introduction, one of the obstacles facing the Québec government is the lack of precision in certain calls for action. In addition, their wording is sometimes out of step with departmental realities, making them difficult to apply. In this respect, Call for Action No. 19, which requires that Indigenous authorities create liaison officer positions and that the officers be present in all Nunavik villages, First Nations communities and Friendship Centres, is considered by some to be utopian.

The French wording of Call for Action No. 55 is intended to "automatically allow" (*permettre*) the writing of a Gladue summary<sup>131</sup> when an Indigenous person enters the legal system.<sup>132</sup> The Québec Ombudsman invites the Québec government to exercise discernment and, in these situations, to focus on resolving the issues underpinning the wording of calls for action. In addition, it would be appropriate to undertake discussions with Indigenous authorities and representatives to redefine calls for action deemed imprecise or unrealistic so that they are better aligned with public service realities and First Nations and Inuit community needs. Such an approach would make it easier to follow up on these initiatives.

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131 Gladue summaries are an alternative to Gladue reports for Indigenous offenders incarcerated for periods of fewer than 90 days. The letters take less time to prepare and focus more specifically on potential alternatives for Indigenous offenders. Source: CERP final report (2019), cited above, footnote 3, pp. 350-354.

132 The French wording of Call for Action No. 55 is silent on its implementation conditions. Should "permettre" imply systematic drafting of such letters according to CERP? Or should Gladue letters be presented as a legal process option available to First Nations and Inuit?





# CONCLUSION

Further to publication of the report of the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress, the Québec government undertook several initiatives in response to the calls for action issued for all the public services concerned. Given the number and scale of the projected changes, it stands to reason that there will be disparities in how far implementation has progressed within each of the public services concerned. It bears remembering that CERP-related government action is only part of what the government does on issues that affect First Nations and Inuit. In addition, critical situations in recent years, such as the COVID-19 pandemic, have taken up a great deal of the government's time and energy.

In this report, the Québec Ombudsman's analyzes the progress made in response to the Viens Commission's 142 calls for action, while drawing attention to some disturbing flaws. The findings presented in this follow-up report have prompted the Québec Ombudsman to propose action priorities so that the changes underway and those to come are optimal.

All in all, because human dignity and basic rights are at stake, the Québec Ombudsman considers that progress has been modest, given the immediacy of many of the issues identified in the context of the Viens Commission, issues known to be alarming going back several decades. As time goes by, the need to act becomes increasingly urgent. Systemic discrimination against First Nations and Inuit persists and it is imperative that the State and all of society put an end to it.

The Québec Ombudsman notes that several initiatives are taking too long to be implemented effectively, which calls for a rethink of the way things are done in relations with First Nations and Inuit. This reconsideration must involve recognizing the issues as expressed by the members of these communities, full ownership of the responsibilities arising from this recognition and, consequently, a commitment to work differently.

However, to implement sustainable solutions, fragmented actions will not suffice. A comprehensive implementation strategy, bolstered by additional budgets and human resources, is needed to enable all public services to move forward with a common purpose and generate the results sought. The issues raised by relations between First Nations and Inuit and public services must be dealt with in a concerted manner based on the urgencies and priorities identified by CERP and, above all, those identified by the Indigenous authorities. Sustained leadership in tackling cross-disciplinary priorities head-on will encourage more confident collective action.

At this stage, a clear and assertive vision of what public services should be able to achieve for and with First Nations and Inuit must be adopted, and a solid framework for bringing this vision to fruition must be built. Ultimately, the active struggle against the racism and systemic discrimination experienced by First Nations and Inuit in their relations with Quebec's public services requires the co-construction of mechanisms aimed at giving the specific rights of Indigenous peoples, including their linguistic and cultural rights and their right to self-determination full breadth. This approach must also be based on a clear intention and commitment to transform society, with a constant focus on achieving substantive equality for First Nations and Inuit, while respecting their autonomy.

The Québec Ombudsman would be remiss if it did not highlight the commitment and work of the various people involved in Indigenous issues. Inspiring initiatives stemming from the Viens Commission have led to significant gains. Tangible improvement in recognizing Indigenous realities and a willingness to effect change can be seen in certain sectors. These efforts should be continued and expanded based on the findings of this report.

This first analytic exercise has been a rich learning experience, and the Québec Ombudsman is honoured to have contributed to it. It is committed to continue its work by following the path laid out by the Viens Commission, namely,

by ensuring, to the best of its ability, that the voices of First Nations and Inuit communities are truly heard and that their knowledge, expertise and world views are at the heart of the solutions chosen.

Subsequent follow-up reports by the Québec Ombudsman will not necessarily aim to provide a systematic analysis of the implementation of each of the Commission's calls for action. Instead, they will examine more targeted issues and themes based on priorities identified in collaboration with various First Nations and Inuit partners as well as with the government departments and agencies concerned. A review of all the calls for action, as in this report, may be carried out when deemed necessary. Given the magnitude of the process to follow-up on a commission of enquiry aimed at bringing about profound changes within public services, it is expected and desirable that the discussions to come, the ideas that will be proposed and the actions that will be taken will influence how the ensuing impact is rated.

Going forward, in everything it does, the Québec Ombudsman will continue to abide by the words so carefully chosen by the Viens Commission:

- **Listening:** truly taking Indigenous voices into account and maintaining sincere exchanges.
- **Reconciliation:** recognizing and respecting Indigenous people's experiences, differences and rights in order to strengthen relations and develop the tools needed to forge ahead together.
- **Progress:** learning with humility in order to rethink ways of doing things and bring about lasting, systemic change.

Finally, it invites the government and public services to move in the same direction so that we can find "the courage to collectively reinvent ourselves to allow collaborative spaces that are more egalitarian and respectful towards everyone to emerge."<sup>133</sup>

133 CERP Final Report (2019), cited above, footnote 3, p. 469.





# APPENDIX 1

## ACTION PRIORITIES AND KEY PRINCIPLES FOR IMPLEMENTING THEM

### OVERALL FINDINGS

- Adopt an overall strategy for implementing calls for action and improving inter-departmental coordination
- Increase coherence between commitments and actions concerning First Nations and Inuit
- Generate systemic change
- Improve collaboration and co-build solutions with Indigenous representatives
- Understand the purpose of calls for action that are sometimes worded imprecisely or deemed unrealistic

### CROSS-DISCIPLINARY CALLS FOR ACTION

#### Concerning various public services (Nos. 1 to 26)

- Engage in a process with indigenous representatives to enshrine UNDRIP within Québec's legislative framework
- Establish a clear portrait of first nations
- Address the housing issue as a matter of urgency
- Work with indigenous authorities to develop a strategy to protect and promote first nations and Inuit language rights
- Base advances in education on a strategic vision
- Have structured professional development programs so that mindsets and practices evolve

### CALLS FOR ACTION BY PUBLIC SERVICE

#### Police services (Nos. 27 to 39)

- Ensure comprehensive, concerted implementation of calls for action within municipal police departments
- Recognize Indigenous police services as autonomous bodies and essential services
- Put Indigenous women's safety first

**Justice services (Nos. 40 to 55)**

- Make self-determination and systemic changes priorities in matters of justice
- Strengthen interdepartmental collaboration
- Ensure the quality of MJQ collaborations with indigenous partners

**Correctional services (Nos. 56 to 73)**

- Act throughout the prison system to aim systemic change and eliminate all discrimination
- Create conditions for fruitful collaboration with all current and potential Indigenous partners
- Provide decent and appropriate detention conditions for indigenous women without delay

**Health services and social services (Nos. 74 to 107)**

- Adopt a comprehensive long-term strategy to bring about systemic change
- Make discrimination prevention part of major departmental policies
- Grant leverage to ensure that committee work achieves results
- Extend population-based responsibility to the entire indigenous population
- Co-prioritize in order to structure tripartite work over the longer term

**Youth protection services (Nos. 108 to 137)**

- Strengthen collaboration between MSSS and Indigenous organizations for effective youth protection action
- Acquire the resources and expertise for urgently addressing Indigenous youth protection issues
- Aim for concrete and lasting outcomes by focusing on self-determination, as quickly as possible
- Quickly implement legislative changes in the spirit of the Viens Commission
- Base youth protection reforms on guidelines aimed at bringing about systemic change
- Ensure follow-up and consistency in implementing calls for action concerning youth protection in Indigenous communities



# APPENDIX 2

## FOLLOW-UP TABLE ON THE 142 CALLS FOR ACTION






In this appendix, a rigorous analysis of each call for action, based on specific and defined criteria, has made it possible to establish a rating of the actions taken regarding a given call for action. The rating was determined based on the following criteria, with a view to knowing whether all of the actions taken:

- 1) **Are consistent with the wording and intent of the call for action**
  - Take into account the paragraphs preceding the call for action in the Viens Commission's report;
  - Wording identical to that in the call for action
  - In line with the terms of the decree (effective, concrete, corrective and sustainable actions).
- 2) **Ensure the completeness of actions on the territory concerned**
  - Consist of actions that are not fragmented;
  - Apply to all communities and villages concerned and/or all towns and regions concerned;
- 3) **Are long-term and sustainable;**
- 4) **Develop and maintain collaboration with First Nations and Inuit (when applicable).**

As mentioned in the Introduction, these criteria were chosen to reflect the basic premises of the Viens Commission and the intentions of the government decree. In concrete terms, the more the actions deployed by departments and organizations met a large number, or even all, of the criteria, the more satisfactory they were deemed to be.

Regarding the calls for action explicitly requesting ongoing funding (Nos. 6, 35, 43, 49, 58, 76, 86, 97 and 99), the Québec Ombudsman has determined that they can only be deemed fulfilled when the costs associated with deploying the expected services have been integrated into the core funding of the organizations concerned (into their "mission"). This demonstration of sustainability could also consist of the creation of permanent positions, funding granted over longer periods to take account of the realities specific to the Indigenous context, or other means of ensuring the sustainable delivery of services to First Nations and Inuit.

Colour code legend:

	Call for action implemented
	Call for action underway in a satisfactory manner
	Call for action underway, but in an unsatisfactory manner
	Call for action for which no relevant action has been undertaken
	Analysis under way

Please note: Calls for action that were deemed **urgent**, or **priorities to be implemented first or in the shortest possible timeframe** in the Viens Commission's report, are identified by means of a star (★).

Table 1: Assessment of the actions taken regarding each of the calls for action – 2023

No.	Call for action wording	Appreciation of the Québec Ombudsman
<b>CROSS-DISCIPLINARY CALLS FOR ACTION</b>		
<b>1★</b>	Make a public apology to members of First Nations and Québec's Inuit for the harm caused by laws, policies, standards and the practices of public service providers.	The speech by the Premier of Québec on October 2, 2019, is fully in line with the wording and purpose of the call for action. This call for action is considered implemented.
<b>United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)</b>		
<b>2★</b>	Adopt a motion to recognize and implement the United Nations Declaration on the Rights of Indigenous Peoples in Québec.	The unanimous adoption of the October 8, 2019, and October 1, 2020, motions asking the government to recognize the principles and commit to negotiating the implementation of UNDRIP is in line with the essence of the request made in Call for Action No. 2. This call for action is considered implemented.
<b>3★</b>	Working with Indigenous authorities, draft and enact legislation guaranteeing that the provisions of the United Nations Declaration on the Rights of Indigenous Peoples will be taken into account in the body of legislation under its jurisdiction.	The responses from SRPNI do not indicate any concrete action related to this call for action. Although it mentions its openness and individual discussions with certain nations, no plans or objectives to initiate discussions around UNDRIP are being considered, even though the National Assembly has expressed its support by adopting two motions.

## Ethno-cultural data collection and population surveys

<p><b>4★</b></p>	<p>Incorporate ethno-cultural data collection into the operation, reporting and decision-making of public sector organizations.</p>	<p>Implementation of Call for Action No. 4 requires a comprehensive legislative and administrative commitment across the various departments and agencies. However, information obtained to date shows no government intention to proceed with the concerted integration of ethnocultural data collection into public sector organizations' operations, accountability and decision-making. More specifically, SRPNI asserts that it does not have the authority to embark on a major project on the issue, nor to push departments and agencies to implement this call for action. In addition, SRPNI maintains that the challenges associated with implementing data collection processes (IT, administrative, staff training, human resources and other) are so great that they, in fact, prevent the call for action from being implemented.</p> <p>For their part, departments claim to be faced with legal, deontological, ethical and technological feasibility issues that hamper the integration of ethnocultural data collection across their sectors. Despite this, some departments have undertaken to collect ethnocultural data for more specific purposes. For example, Québec's correctional services produce statistics on the self-declared identity of detainees. Police forces, for their part, are required to collect data on the ethnic origin, where known, of suspects and victims of criminal offences. In addition, the Ministère de la Justice is continuing to determine the analysis process that will yield a detailed picture of the judicialization of cases in Indigenous communities. The Ministère de l'Éducation, for its part, collects data on Indigenous attendance at educational institutions in territories covered by an agreement. It is currently working on introducing an "Indigenous" identifier to distinguish Indigenous students attending public schools in urban areas within its databases.</p> <p>Finally, the Indigenous representatives consulted feel that any initiative aimed at integrating ethno-cultural data collection (including the creation of an "Indigenous" identifier) into the operation of public services must take into account their demands regarding the governance of data on the Indigenous population.</p> <p>In short, although incomplete, government actions tend to fulfill the intent of the call for action. If future actions are to be deemed satisfactory, the issues facing government departments will have to be addressed, by developing, with the Indigenous authorities concerned, standards and guidelines that apply to the entire government apparatus.</p>
<p><b>5★</b></p>	<p>Make the necessary administrative and legislative changes to allow Indigenous authorities to access data about their populations at all times, in the health and social services sectors in particular.</p>	<p>Several actions have been taken in response to this call for action. In the health and social services sector, Indigenous nations that have signed an agreement have direct access to health and social data concerning their populations, via the public health departments of their institutions. In addition, a research data mobilization project currently underway gives FNQLHSSC access to First Nations health and social data for the past 20 years. However, despite its usefulness, such a project does not</p>

		<p>provide Indigenous authorities with long-term access to all data relating to their population, easily and at all times.</p> <p>In MSSS's view, the fact that many Indigenous organizations are not legally bound by legislation such as the <i>Act respecting health services and social services</i> makes it impossible to transmit information to them without breaching its privacy obligations. Two bills tabled in winter 2023 concerning the healthcare system (Bill 3, <i>An Act respecting health and social services information and amending various legislative provisions</i>, and Bill 15, <i>An Act to make the health and social services system more effective</i>) could have proposed solutions but did not. As the issue of finding a way of legally recognizing Indigenous organizations is still relevant, this call for action is considered to have been undertaken, albeit in an unsatisfactory manner. For future action to be deemed satisfactory, it will be necessary to oversee the legislative revisions that ensure Indigenous authorities easy access to data on their populations.</p>
<p>6★</p>	<p>Make population surveys on Indigenous peoples an ongoing research priority with sustained funding.</p>	<p>For SRPNI, there is currently no work plan to make population surveys a priority, recurring and permanently funded area. Indeed, in SRPNI's opinion, the implementation of Call for Action No. 6 can only be variable since it is up to the departments to carry out such surveys according to the reality of their sector and the requests made to them by their Indigenous partners. It also seems that opinions on the relevance of this call for action are divided; some Indigenous partners say they would like to see funding focused more on implementing action plans than on deploying population surveys.</p> <p>However, a number of initiatives are being undertaken by departments to gather data on issues present within Indigenous communities. For example, MSP is currently funding a research project to gather data on the sexual exploitation experienced by First Nations and Inuit people, both in communities and in urban settings. This measure is part of the government's <i>Plan d'action gouvernemental en réponse aux recommandations de la Commission spéciale sur l'exploitation sexuelle des mineurs (2021-2026)</i>. In addition, a pilot project is underway, in collaboration with FNQLHSSC, in connection with the <i>Enquête québécoise sur les rapports sociaux</i>. For its part, MSSS states that it is working with regions wishing to participate in population surveys, but that to date, these do not allow respondents to be identified according to their Indigenous status. Finally, MSSS has set up a working group involving the Institut de la statistique du Québec and Indigenous partners to find ways of improving health status monitoring for First Nations and Inuit, while respecting the organizations' governance and operating principles.</p> <p>At first glance, the work of this working committee appears to be in line with the intent of the call for action, although it is still in its early stages. The Québec Ombudsman will be monitoring its progress and will pay particular attention to ensuring that the priorities of Indigenous partners are taken into account, particularly regarding data governance.</p>

<p><b>7★</b></p> <p>To Indigenous authorities</p>	<p>Make all the First Nations band councils and Inuit village councils aware of the importance of participating in surveys of their populations.</p>	<p>At the time this report was being written, the Québec Ombudsman did not have sufficient information to assess this call for action's implementation.</p>
<p><b>Housing</b></p>		
<p><b>8★</b></p>	<p>Conclude agreements with the federal government under which both levels of government financially support the development and improvement of housing in all indigenous communities in Québec.</p>	<p>Although the Société d'Habitation du Québec (SHQ) and the Ministère des Affaires municipales et de l'Habitation (MAMH) support housing efforts in Kitcisakik, and projects are underway in Nunavik (see Call for Action No. 9), MAMH maintains that the division of responsibilities arising from the constitutional framework limits its capacity for action regarding housing to the territories under its jurisdiction. Following this line of reasoning, the Québec government has not entered into negotiations with its federal counterpart to provide financial support for housing construction or improvement, except for the aforementioned examples. In the Québec Ombudsman's opinion, the purpose of the call for action is to resolve the housing crisis facing Indigenous communities regardless of their place of residence through negotiated agreements. Given the information obtained, no relevant action has been taken to resolve the issue underlying this call for action.</p>
<p><b>9★</b></p>	<p>Continue the financial investments to build housing in Nunavik, taking families' actual needs into account.</p>	<p>SHQ and MAMH continue to provide financial support for housing construction in Nunavik and are meeting the objectives they have set. However, it is impossible to demonstrate that these objectives are based on the real needs of families, since the responses obtained do not show that the budgets granted are the result of a match with the needs expressed on the ground. Furthermore, to ensure that these investments are sustainable, the funding agreement with the federal government, the Makivvik Corporation, the Kativik Regional Government and the Kativik Municipal Housing Bureau must be maintained. The agreement has just been renewed for a two-year period to allow the parties time to agree on a new funding model for housing in Nunavik. That said, the Viens Commission was clear in its intention: "the serious Indigenous housing crisis has emerged as the epicentre of many of the issues faced by the First Nations and Inuit." (CERP final report [2019] p. 230). Indeed, several recent articles and reports correlate this issue with an increase in infant mortality (<i>Le Devoir</i>, October 22, 2022), tuberculosis cases (<i>Radio-Canada</i>, November 16, 2022) and domestic violence (<i>Radio-Canada</i>, September 23, 2022). The urgent need for action on housing in Nunavik is clear. In this regard, the initiatives deployed are unsatisfactory, as they are still disproportionate to the scale of the shocking problems denounced in the context of the Viens Commission.</p>

<p>10★</p>	<p>Contribute financially to social housing initiatives for Indigenous people in urban environments.</p>	<p>In SRPNI's opinion, the demand for social housing for Indigenous people, which must be based on the development of projects by Indigenous developers, is currently insufficient to warrant a dedicated program. In the past, several Indigenous social housing projects have been financed by the AccèsLogis program. In February 2023, it was announced that this program would be abolished and replaced by the Québec Affordable Housing Program (PHAQ) once most AccèsLogis-approved units had been financed. This withdrawal leaves some uncertainty as to how social housing-related needs for Indigenous people in urban areas will be met over the next few years. Further analysis will be required to determine the effect of this program change on the creation of housing for First Nations and Inuit in urban areas.</p> <p>Funding has also been announced for constructing four living environments for Indigenous students. These projects (see Call for Action No. 11) are the result of fruitful collaboration with the Indigenous organizations concerned. However, further projects will be required to meet the housing needs of the Indigenous population as a whole. To increase the availability of housing that meets the needs of First Nations and Inuit in urban areas, developing a work plan or specific program with the Indigenous authorities concerned seems unavoidable. This call for action has already begun, but in an unsatisfactory manner.</p>
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School perseverance

<p>11★</p>	<p>Make implementation of student retention and academic success measures for Indigenous students and young people a priority and allocate the amounts required, guided by the needs identified by the Indigenous peoples themselves and complying with their ancestral traditions.</p>	<p>While this call for action focused on the educational success of Indigenous students, the government has undertaken more comprehensive actions that affect students at all grade levels. SRPNI therefore announced two measures under the "J'ai espoir" initiative and seven measures in the new 2022-2027 FNI Action Plan that respond to the intent of Call for Action No. 11. These measures have enabled MES, MEQ and RCAAQ to support projects, programs and initiatives in line with the call for action. FNEC also received funding to implement 2022-2027 FNI Action Plan measures.</p> <p>For post-secondary students, the government allocated \$45.7 million to MES as part of the 2022-2023 budget for actions supporting student retention. For example, universities and cégeps received fixed annual funding to support Indigenous students, while the Société immobilière du RCAAQ received funding to build three community living environments for Indigenous students in three different cities. However, this budget does not appear to have been renewed or increased for 2023-2024. As part of the 2022-2027 FNI Action Plan, MES is responsible for three measures totaling an investment in new credits of \$20.39 million over five years. MES also recently created the Service aux relations avec les Premières Nations et les Inuit. According to this new body, this has significantly enhanced the actions that contribute to supporting Indigenous students during their post-secondary studies.</p> <p>In terms of kindergarten, elementary schools and secondary schools, MEQ has requested funding to develop measures in line with the call for action, notably through the work of the Table</p>
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nationale sur la réussite éducative des élèves autochtones. This table, in which Indigenous partners participate, enables MEQ to target the needs and priorities of First Nations and Inuit educational institutions. MEQ is also working to develop concerted actions within the framework of a *Stratégie pour la réussite éducative des élèves autochtones*. It also announced three measures in November 2021, including the "Ensuring adequate support for Indigenous students in the Québec public school system" measure. Funding for this is planned for fiscal years 2021-2022 to 2024-2025. Finally, in the 2021-2022 Budget Plan: *A Resilient and Confident Québec*, funding has been granted to MEQ to promote the success of Indigenous students until 2025-2026. MEQ also received \$10 million in funding as part of the new 2022-2027 FNI Action Plan. According to information from SRPNI, the latter has allocated \$14.2 million to MEQ under the "J'ai espoir" initiative to support Indigenous students in the Québec network, and \$10 million as part of the 2022-2027 FNI Action Plan to support the academic perseverance of Indigenous students.

Indigenous representatives also pointed to the government's lack of flexibility in educational matters as a major issue in implementing this call for action. Indeed, even if educational institutions in Indigenous communities are autonomous in their deployment, they must still comply with provincial accreditation, curriculum development and diploma recognition standards. For example, the new version of the *Charter of the French Language* ignores the changes requested by many Indigenous representatives that would prevent its harmful effects on the educational success of First Nations and Inuit. As a result, on April 20, 2023, the Chiefs of AFNQL and FNEC filed an appeal for judicial review to declare certain provisions of the *Charter of the French Language* unconstitutional, as they infringe on the ancestral rights of Indigenous peoples. At the time this report was being written, the following draft regulations had been published and were being analyzed: a draft regulation concerning French-language knowledge requirements necessary for the issuance of an attestation of college studies, and a draft regulation authorizing the Minister of Higher Education, Research, Science and Technology to allow exceptions in applying section 88.0.17 of the *Charter of the French Language*. These draft regulations were introduced to apply sections of the *Charter of the French Language* for which AFNQL and FNEC sought an appeal for judicial review. The Québec Ombudsman will continue to monitor developments closely.

The Québec Ombudsman commends the government's concrete actions in implementing this call for action and encourages the departments and agencies concerned to continue their efforts. Much is being done, but there is still a long way to go to meet the real needs of Indigenous students, to respect their ancestral knowledge, and to ensure nation-to-nation collaboration between Indigenous organizations and government education-related organizations.

Language	
12★	<p>Amend the Regulation to authorize professional orders to make an exception to the application of section 35 of the <i>Charter of the French language</i> to extend the exception to all professionals exercising their professions on a reserve, in a settlement in which an Indigenous community lives or on Category I and Category I-N lands within the meaning of the <i>Act respecting the land regime in the James Bay and New Québec</i>, regardless of where they reside.</p>
13★	<p>Expand the scope of the Regulation to authorize professional orders to make an exception to the application of section 35 of the <i>Charter of the French language</i> to exempt interpreters and translators of Indigenous languages from the French language knowledge requirements.</p>
14★	<p>Make Indigenous language translation and interpreting services permanently accessible throughout Québec by establishing a centralized database of government employed interpreters and translators.</p>

Calls for Action Nos. 12 and 13 have not been achieved.

The changes made to the *Charter of the French Language* by the *Act respecting French, the official and common language of Québec* did not bring about the legislative amendment necessary for their implementation, despite representations to this effect by AFNQL and other First Nations organizations. To revise the regulations so that they are in line with the calls for action, section 97 of the *Charter of the French Language* must be amended, given that it is this section that sets out the regulatory framework.

It should be noted that on April 20, 2023, AFNQL and FNEC Chiefs filed an appeal for judicial review to declare certain provisions of the *Charter of the French Language* unconstitutional, and in particular, to invalidate section 35.

There is no centralized bank of Indigenous government-employed language interpreters and translators. According to SRPNI, lack of available resources and lack of training are the main causes. Interpretation and translation services are not automatically provided in the public sector, except for some justice and in some correctional facilities, and each institution has its own way of meeting needs. In most cases, departments, agencies and police departments requiring interpretation and translation services have to sign contracts directly with interpreters and translators, or with private agencies.

A budget of \$5.5 million was allocated to MJQ to create agreements with Indigenous organizations for training, accrediting and hiring interpreters, but this funding has still not been used. MJQ is currently in discussions with Eeyou/Eenou, Inuit, Innu, Atikamekw and Naskapi organizations to assess their interest in taking on the hiring of court interpreters, who would be made available to the courts. Discussions are also progressing with a view to deploying full-time interpreters in the Innu community, based on the AEC *Innu language translator/interpreter program* at Cégep de Sept-Îles. For its part, MSSS, in its *Guide sur la sécurisation culturelle en santé et services sociaux*, mentions the importance for Indigenous Peoples to have access to services in their own language, but makes no further commitment to guarantee this. While these actions are relevant



		<p>to improving translation and interpretation services, they are not intended to institute a centralized government-employed bank.</p> <p>On the ground, Indigenous organizations find themselves having to fill the gap in interpretation and translation services in public services, which can represent a significant additional burden. Their employees perform this additional task when they are already overwhelmed by their duties and receive no recognition for these tasks for which they are generally not trained. Finally, despite the various actions taken by government institutions and Indigenous organizations, service supply is still uneven, and the efforts made do not ensure the quality and availability of the resources required to meet translation and interpretation needs in the network. Although such services are offered under certain conditions in some environments, no action has been taken to develop a permanent centralized bank of interpreters and translators employed by the Government of Québec.</p>
<p>15★</p>	<p>Promote and permit bilingual and trilingual signage in establishments that serve large Indigenous populations who speak a language other than French.</p>	<p>Some public service institutions and Nations covered by an agreement provide signage in English and/or Indigenous languages. For example, courthouses in Nunavik, Cree justice centres, CAVAC offices and SQ police stations offer bilingual and trilingual signage. However, this is not a standardized nor a systematic practice in establishments serving a large Indigenous population. SRPNI says it has no precise role to play in this matter and maintains that each establishment is responsible for meeting the needs of the population it serves. For its part, MSSS maintains that implementing this call for action raises responsibility issues, the main driving force being the Ministère de la Langue française.</p> <p>The changes made to the <i>Charter of the French Language</i> by the <i>Act respecting French, the official and common language of Québec</i> were a missed opportunity for the government to respond to this call for action. The new directive allows written and oral communications in English or Indigenous languages with First Nations and Inuit people but makes no provision for encouraging and enabling bilingual or trilingual signage for Indigenous populations from the outset. Furthermore, the new provisions of the <i>Charter of the French Language</i> may complicate implementation of this call for action.</p> <p>The intention of the call for action was indeed that signage be encouraged and permitted for all establishments serving a large Indigenous population, but there have not been any guidelines or comprehensive actions since the final report was submitted. This call for action is therefore considered underway given the initiatives undertaken by various sectors and departments, but in an unsatisfactory manner considering the government's lack of a comprehensive and facilitating objective. The Québec Ombudsman will remain attentive to the repercussions of the new provisions of the <i>Charter of the French Language</i> for the Indigenous population in its follow-up to this call for action.</p>

16★

Make forms available in Indigenous language translations at government service centres.

Promising steps have been taken in various public sectors to translate forms and documents into Indigenous languages. For example, court forms have been translated into Cree, Inuktitut and Innu-aimun. Atikamekw and Naskapi are also in the process of being translated. For its part, SQ has translated its prevention and awareness tool for victims of domestic violence into five Indigenous languages. Correctional services are translating certain documents into Inuktitut for Inuit, and the Police Ethics Commissioner has had a general information leaflet on police ethics and the conciliation process translated into five Indigenous languages.

The Québec Ombudsman applauds the initiatives undertaken by the various public sectors targeted by the Viens Commission in recent years to implement the call for action. However, not all government institutions are following suit.

The changes made to the *Charter of the French Language* by the *Act respecting French, the official and common language of Québec* were a missed opportunity for the government to respond to this call for action. The new directive allows written and oral communications in English or Indigenous languages with First Nations and Inuit people, but the new provisions of the *Charter of the French Language* may complicate access to translated forms.

This call for action is therefore considered underway given the initiatives undertaken by the various public sectors, but in an unsatisfactory manner, considering the lack of comprehensive and facilitating objectives by the government. The Québec Ombudsman will remain attentive to the repercussions of the new provisions of the *Charter of the French Language* for the Indigenous population in its follow-up to this call for action.

17★

Ensure that all government correspondence with Indigenous authorities is accompanied by either an English or Indigenous language translation, at the choice of the community or organization in question.

Most of the departments and agencies questioned confirmed that they use English courtesy translations in their dealings with Indigenous organizations and communities, as encouraged but not required by SRPNI. The latter is of the opinion that efforts in this area are sufficient, and that a systematic obligation would have no added value. Moreover, none of the institutions questioned offers translation into Indigenous languages, but some say they were open to this when requests were made in this regard. That said, choices as to the target language are not offered. For their part, Indigenous representatives report that English translation is not immediately and systematically offered. They must request it regularly, which makes sharing information much more complex. Some say they never asked for translation into their Indigenous language because they did not know it was an option.

Moreover, the changes made to the *Charter of the French Language* by the *Act respecting French, the official and common language of Québec* were a missed opportunity for the government to respond to this call for action. The amendments allow written and oral communication in English or Indigenous languages with First Nations and Inuit people, but this depends on the way each department and agency operates.

		<p>Despite this, Call for Action No. 17 indicates the need to translate all correspondence and that the organization or community concerned must be offered the choice of language for the translation (English or Indigenous). This call for action is therefore considered to have been initiated given the efforts of certain public sectors, but in an unsatisfactory manner considering the lack of comprehensive and facilitating intervention by the government. The Québec Ombudsman will remain attentive to the repercussions of the new provisions of the <i>Charter of the French Language</i> for the Indigenous population in its follow-up to this call for action.</p>
<p>18★</p>	<p>Issue a directive to establishments in the health and social services network ending the prohibition against speaking an Indigenous language in the context of housing, health care and services.</p>	<p>Believing it was unnecessary to issue a directive, since there is no health and social services network (HSSN) rule prohibiting the use of an Indigenous language, the Minister of Relations with the First Nations and the Inuit instead sent a letter to his counterparts asking them to demonstrate openness and sensitivity towards First Nations and Inuit people regarding the use of their languages in the context of public services. The Minister of Health and Social Services and the Minister Delegate for Health and Social Services have sent letters to senior officials of public institutions for the same purpose. In addition, MSSS claims to have presented a draft directive for HSSN institutions to the Ministère de la Langue française. This draft directive must be approved by the Ministère de la Langue française, as stipulated in the <i>Act respecting French, the official and common language of Québec</i>. MSSS also points out that adjustments may be required further to adopting the orientations of the government's language policy. The directive will be circulated once it has been approved.</p> <p>It is therefore too early to say whether the directive issued by the MSSS will meet the intent of Call for Action No. 18, namely, to put an end to the practice of prohibiting the use of an Indigenous language in the context of housing or health care and services. The aims of this call for action were to protect the rights of First Nations and Inuit to express themselves in the language of their choice, and to prevent the recurrence of discriminatory situations such as those reported by the Viens Commission. Thus, for the call for action to be considered implemented, the approved version of this directive will have to respect its intent: first, by clearly spelling out the behaviours expected of housing, health care and services staff, and second, where applicable, clearly laying out the exceptions to the directive.</p>

Create and fund permanent positions for liaison officers selected by Indigenous authorities to be accessible in the villages of Nunavik, First Nations communities and Indigenous friendship centres in Québec.

This call for action is currently being redefined due to the unrealistic nature of the measures requested. In the opinion of several concerned parties, the geographical dimension in particular poses significant limits and constraints that need to be considered. In addition, it seems that the definition of liaison officers' tasks differs from one department to another, which complicates assessment of the call for action.

If we consider the call for action's intention, i.e. to facilitate communications and accompaniment of First Nations and Inuit in public services, the information obtained shows that the actions undertaken are numerous and concern different sectors. Interesting initiatives even allow liaison officers to be chosen by Indigenous authorities, a case in point being the accompaniment service for Indigenous clientele in prisons.

In its 2022-2027 FNI Action Plan, SRPNI has committed to increasing the number of liaison officers in various sectors. For their part, HSSN establishments have hired 17 liaison officers and the same number of service navigators – whose mandate is to accompany First Nations and Inuit service users through the health and social services system – and these positions are funded by MSSS. Although they are not responsible for selecting the liaison officers, the institutions' Indigenous partners and organizations may be called upon to participate in the hiring process, but the decision rests with the institutions as part of their responsibilities.

These initiatives noted, the other important dimension of the call for action is still the permanent aspect of these positions. Indeed, except for police officers, who are governed by an agreement, and the liaison officer position created in 2018 at the Bureau des enquêtes indépendantes, there is no information to show that other liaison officer positions are permanent at this time. These officers are financed under action plan measures, whereas needs are permanent. This observation is shared by MSP, which considers that liaison officers are essential to the support provided to First Nations and Inuit, and that the need for these officers should generate permanent positions. The precariousness of liaison officer positions tends to weaken staff retention, attraction of skilled labour and expertise development. In addition, the competitiveness of salaries with those offered by the federal government is an issue when it comes to attracting Indigenous candidates.

For its part, MSSS maintains that waiting a few years to implement new interventions before confirming their continuity and long-term funding is a generally accepted public administration practice. This does not mean that services are compromised. Finally, certain steps in hiring people authorized to act as liaison officers should be systematically carried out in conjunction with the Indigenous authorities concerned. This is at least partial response to the call for action and fosters future exchanges with these authorities.

Information campaign, curriculum and training

20★

Carry out a public information campaign on Indigenous peoples, their history, their cultural diversity and the discrimination issues they face, working with Indigenous authorities.

A concrete, detailed plan was established and a budget was allocated for implementing this call for action. According to SRPNI's 2021 *Tracking Table for Responses to Calls for Action by the Public Inquiry Commission on Relations Between Indigenous Peoples and Certain Public Services*, the campaign was scheduled for launch in 2021, but kicked off instead in winter 2023 with a video. There are no details as to the other formats and products that will flow from the campaign, although their content was presented. They include history, languages, success stories and discrimination awareness. Indigenous partners were consulted on the choice of content during a co-creation workshop, and it was decided to favour a positive approach for the campaign. For this reason, the first product aims to raise awareness of the diversity of Indigenous peoples and the importance of taking an interest in them, rather than informing people about the discrimination experienced by their members.

As for collaboration with Indigenous authorities, a co-creation workshop brought together some fifteen Indigenous participants to discuss the campaign. Details of the workshop's composition, modus operandi and frequency of meetings were not specified. Thus, the campaign has been launched, but the lack of information on follow-up and collaboration prevents us from saying that this call for action has been implemented.

21★

Further enrich the Québec curriculum by introducing a fair and representative portrait of Québec First Nations and Inuit history, working with Indigenous authorities.

Since tabling of the Viens Commission final report, MEQ has been working to integrate Indigenous perspectives and realities into the content of the future *Culture and Citizenship in Québec* program, responding in part to the call for action for this program of study. To enable teachers to take ownership of the program, it is due to be phased in gradually as of the fall of 2023, then on a mandatory basis for all schools as of 2024.

Some Indigenous representatives report a significant lack of consultation regarding redesign of the *Ethics and Religious Culture* program so it becomes the *Culture and Citizenship in Québec* program. They report having encountered obstacles in the participation process, such as obstruction, disorganization and lack of information on the part of the team responsible. The Indigenous representatives also said that subjects relating to First Nations and Inuit in the *Culture and Citizenship in Québec* program will be incorporated separately into an appendix, on the pretext that they are "sensitive" subjects. Various parties also disagree with the program title.

For its part, MEQ affirms that it favours collaboration with First Nations and Inuit organizations and wishes to formalize their contribution to the work so that they participate systematically in updating the programs of study of the Québec Education Program. MEQ also wants to be better able to plan ahead for the programs it intends to update, so that First Nations and Inuit have the time they need to take part in the process. However, the updating process is still being developed and has not yet been implemented. Finally, MEQ's and Indigenous representatives' perceptions of collaboration are very different.

		<p>Aside from the information provided on the <i>Culture and Citizenship in Québec</i> program, MEQ is also working to update its curricula to factor in the changing realities of Québec society, including Indigenous realities. This work is part of a measure designed in November 2021 to support the success and perseverance of Indigenous students. However, at the time this report was being written, apart from the appendix in the <i>Culture and Citizenship in Québec</i> program, no other program had been modified to provide an accurate portrait of First Nations and Inuit history. Intentions and structural changes are certainly interesting, but they do not allow us to conclude that programs will indeed be enriched. We will have to keep a close eye on actions in the near future and assess the nature of the collaboration between MEQ and Indigenous education representatives on these subjects.</p>
<p>22★</p>	<p>Introduce concepts related to Indigenous history and culture as early as possible in the school curriculum.</p>	<p>MEQ says it is updating its curricula and teaching tools to factor in the changing realities of Québec society, including Indigenous realities. This work, which is still in progress, is part of a measure designed in November 2021 to support the success and perseverance of indigenous students. The Québec Ombudsman does not know the details of its implementation at this time.</p> <p>Moreover, the new <i>Culture and Citizenship in Québec</i> program is due to be phased in by fall 2023 and become compulsory in 2024. It is aimed at students from the first year of elementary school to the last year of secondary school (except for students in Secondary 3) and is expected to incorporate concepts related to Indigenous realities and perspectives, thus responding in part to the call for action. However, certain details remain to be verified, including the entire content of the program, which was to be presented to the Table nationale sur la réussite éducative des élèves autochtones in April 2023 and then forwarded for ministerial approval. In addition, the content concerning First Nations and Inuit would be incorporated into an appendix. It is therefore too early to assess whether this content will be as significant as this call for action intends.</p> <p>In addition, collaboration on the concepts to be integrated into this new curriculum is not optimal and is perceived very differently by the two parties concerned. MEQ indicates that it has held information and content co-creation meetings in partnership with the Table nationale. In the view of the Indigenous partners, the Table nationale was consulted when MEQ was considering revision of the former <i>Ethics and Religious Culture</i> course. However, since the department's decision to replace this program with <i>Culture and Citizenship in Québec</i>, no consultation has taken place on either the program title or its content. Table nationale members reiterated their request to make the program's French title more inclusive of First Nations and Inuit.</p> <p>The initiatives undertaken are therefore interesting, but the real participation of Indigenous authorities in redesigning curricula at every stage of the process must be ensured. In addition, the Québec Ombudsman will remain attentive to the place that First Nations and Inuit content will have when the new <i>Culture and Citizenship in Québec</i> program is taught, and to when the</p>

23★

Include a component on Québec First Nations and Inuit in professional programs at colleges and universities (medicine, social work, law, journalism and other programs), working with Indigenous authorities.

projects currently being updated will see the light of day. This call for action has thus begun, but in an unsatisfactory manner.

MES, the Université du Québec (UQ) network, the Fédération des cégeps and various universities and cégeps have launched a number of initiatives to address First Nations and Inuit realities. Most of them focus on developing ways to support Indigenous students and raise awareness among the various players in the academic world, but less on integrating Indigenous content into the programs mentioned in the call for action.

In this respect, MES recently created the Service des relations avec les Premières Nations et les Inuit, which facilitates exchanges with the various players in the field and will enable greater emphasis on First Nations and Inuit issues in academic circles. In addition, through the *Accueil et intégration des autochtones au collégial* and *Soutien aux membres des communautés autochtones du Québec*, MES supports institutions in developing or adapting programs that include First Nations and Inuit realities. For example, in the new Social Sciences and Humanities curriculum, colleges will be required to address First Nations and Inuit realities and perspectives in their analysis of issues. For the time being, MES's support is more financial in nature.

In 2019, the Bureau de coopération universitaire submitted a report outlining the various actions by Québec universities in relation to First Nations and Inuit. In particular, it notes the integration of components on Québec's First Nations and Inuit in the various programs. However, because each institution has its own rhythm and way of doing things, there are no overall directives. The Québec Ombudsman notes that there is a willingness to include a First Nations and Inuit component within the Fédération des cégeps and various universities. However, these institutions face several obstacles, including the rigidity of their own operating methods, professors' lack of knowledge of Indigenous realities, and the absence of binding directives from decision-making bodies regarding the obligation to develop First Nations and Inuit components.

Discussions have already taken place at MEQ with a view to integrating a First Nations and Inuit component within the *Référentiel de compétences professionnelles de la profession enseignante* (competency 15). However, there have been no changes or obligations, even though this would have been a partial response to the call for action. Most educational institutions support competency 15, but the government refuses to accept the proposal. In December 2020, as a response, MEQ included an encouragement to teachers to integrate Indigenous realities into their teaching in the *Référentiel*, without this being a prerequisite for the teaching profession. Decision-makers are therefore relying on the good will of faculties and professors, with no concrete plan or obligation to achieve results. However, some institutions have seized the opportunity to create some worthwhile initiatives. For example, Concordia University has established comprehensive measures and is currently modifying its curricula to integrate Indigenous perspectives and knowledge.

		<p>Regarding collaboration with First Nations and Inuit representatives, given that there is no overall directive, educational institutions contact Indigenous education organizations on an individual basis. Both sides are willing to collaborate, which means that Indigenous organizations are sometimes oversolicited and lack resources to meet demand. Finally, since Canada's Truth and Reconciliation Commission (TRC) and the Viens Commission, there have been more and more initiatives to take into account First Nations and Inuit realities in the university and cégep sectors. These initiatives are interesting, but insufficient because they do not lead to concrete, effective and comprehensive results in implementing Call for Action No. 23.</p>
<p><b>24★</b></p>	<p>Make the professional orders aware of the importance of including content in their training programs, developed in cooperation with Indigenous authorities, that addresses cultural safeguards and the needs and characteristics of First Nations and Inuit.</p>	<p>SRPNI sent a letter to the Conseil interprofessionnel du Québec, which brings together the 46 regulated professional orders, asking it to inform its members about the importance of developing training courses on the needs and characteristics of First Nations and Inuit, as well as on cultural safety. We do not know if there was a response to this letter. In addition, SRPNI took advantage of its February 2021 address to the members of this same interprofessional council to remind the order representatives in attendance of the importance of including content developed in collaboration with Indigenous authorities in their training programs. Although it is impossible to demonstrate that these awareness-raising activities have had a positive impact, SRPNI has carried out two forms of awareness-raising at two different levels.</p> <p>This call for action is considered to have been implemented. That said, to sustain this achievement, it will be important to verify whether the changes made in the training provided by the professional orders are consistent with the awareness-raising initiatives, failing which further mobilization will be required.</p>
<p><b>25★</b></p>	<p>Make training developed in cooperation with Indigenous authorities that promotes cultural sensitivity, cultural competence and cultural safeguards available to all public service managers, professionals and employees who are likely to interact with Indigenous peoples. Out of respect for the cultural diversity of Indigenous nations, this training must be adapted to the specific Indigenous nation(s) with which the employees interact.</p>	<p>As Calls for Action Nos. 25 and No. 26 go hand in hand, the Québec Ombudsman has made an overall assessment. Call for Action No. 25 requires for training to promote sensitivity, competence and cultural safety to be made available to the entire public service. In response, SRPNI has developed an online self-training course comprising six modules, lasting a total of around seven hours, produced in collaboration with MJQ, UQAM and numerous Indigenous individuals and organizations. Available since June 2021, this general training initiative is a first step within professional development, from raising awareness among all employees (for whom the training is intended) to ensuring cultural safety in the various public services' organizational practices. It will therefore be important to continue developing more specific training programs to better equip professionals in their fields of expertise, and to offer content adapted to the Indigenous nations with which they are called upon to work.</p> <p>In addition, it will be important to provide public service employees with guidelines on how to concretely adapt their approaches and interventions when they interact with members of different Indigenous peoples.</p>



26★

Provide ongoing and recurrent training to all public service managers, professionals and employees who are likely to interact with Indigenous peoples.

Some projects are already underway. For example, complementary modules for the health sector and government socio-judicial workers are currently being developed. In addition, since March 2023, a module on conjugal, family and sexual violence in Indigenous environments has been available to all those who contribute to the pilot project for a specialized court for sexual and conjugal violence.

In addition, some departments and agencies have taken the initiative to create training courses that are more in line with their own realities. These initiatives range from a two-hour online course to a two-day classroom course. For example, SQ, in collaboration with UQAT, offers a training course designed to promote appropriate intervention in Indigenous contexts. Priority is given to police officers who work with or near Indigenous communities.

Therefore, training already exists and meets the intent of the call for action, but it is not always adapted to the Indigenous nations with which public servants are likely to interact. Implementation of this call for action is considered off to a good start because several projects are underway and are moving in the right direction. Nonetheless, the production of training remains a work in progress. We still have a long way to go to ensure culturally safe services for First Nations and Inuit in the province's public services. The Québec Ombudsman encourages the various departments and agencies to continue their efforts in this regard.

Several training courses have been established on an ongoing, recurring basis, or are planned for the near future. In addition to the one-day session offered online by MJQ and SRPNI, the latter also offers monthly training for public service professionals and managers. This initiative reaches over 3,000 people every year. In addition, HSSN will soon begin developing other training courses, this time dealing with more specific cultural safety content. Two training courses will be created for this purpose. One will be aimed at training HSSN workers who interact directly with First Nations and Inuit users in the cultural safety approach, with a view to improving practices. The other will be aimed at managers, senior executives and board members, to support the sustainable implementation of cultural safety within facilities.

These initiatives are in line with Calls for Action Nos. 25 and 26. However, we do not know if public service training is or will be provided on an ongoing, recurring basis. Furthermore, if training is to have the desired effect, and if information retention is to be effective, the government will have to evaluate it, its content will have to be updated where necessary, it will have to truly reflect realities in the field, it will have to last long enough to achieve its objectives, and training must be compulsory for certain key professions.

No.	Call for action wording	Appreciation of the Québec Ombudsman
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## POLICE SERVICES

### Police intervention in Indigenous contexts

<b>27★</b> To Indigenous police forces	Adopt and implement a conflict of interest policy for the handling of investigative and intervention matters.	At the time this report was being written, the Québec Ombudsman did not have sufficient information to assess the implementation of this call for action.
<b>28★</b> To Indigenous authorities	Explore the possibility of setting up regional Indigenous police forces.	Indigenous communities interested in consolidating their police services can begin negotiations with MSP. Two projects to consolidate Indigenous police forces are currently being developed: the first serving the communities of Winneway, Kebaowek and Timiskaming, and the second, the communities of Ekuanitshit and Natashquan. The Winneway-Kebaowek-Timiskaming project began in October 2021. To date, more than 40 meetings have been held with the parties concerned, and two bilateral funding agreements and a collaboration agreement have been signed with MSP. However, the regional police force is not yet operational. As for the Ekuanitshit- Natashquan project, it remains at the preliminary discussion stage with MSP. This call for action is therefore considered to be progressing, but not yet fully implemented.

### Training

<b>29★</b>	Revise how the training of recruits hired by Indigenous police officers is financed to reduce the cost difference between the various categories of candidates.	The measure facilitating access for Indigenous police force recruits to the initial Indigenous police-patrol training program is satisfactory and goes even further than reducing the cost gap. In fact, it will cover the cost of tuition, teaching materials and accommodation for 24 Indigenous police recruits per year until 2025, equivalent to around 97% of the cost. However, there is no guarantee that the cost gap will be reduced after 2025. In addition to providing a corrective subsidy for a few years, permanent funding for the training of Indigenous police recruits must be ensured, as set out in the call for action.
<b>30★</b>	Inject the funds required to ensure that the offering of regular and continuing education at the <i>École nationale de police du Québec</i> is fully accessible in English and French.	According to information received from MSP, over 20% of ENPQ's training programs have been or are being translated into English. Training courses that need to be translated would be prioritized, given the needs expressed by English-speaking Indigenous police forces and agreements with English-speaking training partners. A case in point is the Canadian Police Knowledge Network and the Ontario Police College, whose agreements enable ENPQ to offer an enhanced English-language training catalog. In addition to its planned course schedule, ENPQ offers training courses in response to demand from Indigenous police forces. These steps are in line with this call for action. Furthermore, SRPNI's 2022 follow-up table mentions a four-year deadline for translating all professional development training at ENPQ into English but does not specify from which year onwards. However, based on the information received from police organizations, we cannot say that these achievements are satisfactory. In fact, despite the training courses currently translated and existing agreements, English-speaking organiza-

		<p>tions are struggling to requalify their police officers every five years on certain content as they are required to do. Nor are they able to train them in basic skills such as radar and taser use. This shortcoming can become a safety issue for police officers and the members of the communities they serve. Moreover, having officers whose training is not up to date or accredited can expose their police service to negative comments in police ethics investigations or from BEI, even though at times it has been impossible to train officers in English for certain content. This sets organizations up to fail and places undue additional pressure on them. In addition, organizations are not always able to obtain accreditation for training received at other police colleges across Canada, even though ENPQ's regulations on training and education stipulate equivalence standards for both the initial police patrol training program and advanced and ongoing training.</p> <p>The Québec Ombudsman therefore considers that this call for action has begun, but in an unsatisfactory manner. For it to be implemented, it would be necessary to make it easier to accredit training courses received in other provinces and to ensure a sustained and continuous rate of translation, with guaranteed funding until the training catalog is fully translated.</p>
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**Indigenous police force budgets**

<b>31★</b>	<p>In collaboration with Indigenous authorities, establish a complete status report on the state of the infrastructure and equipment available to Indigenous police forces, the wages and the geographic (distance, road access, etc.) and social (criminality, poverty, etc.) realities of the communities they serve.</p>	<p>This call for action is deemed implemented. In December 2020, the Québec government announced \$4.1 million in funding to produce a status report on Indigenous police forces. In March 2021, an agreement was signed with the Quebec Association of First Nations and Inuit Police Directors (QAFNIPD). Since then, the various partners have worked in collaboration with AFNQL to put this call for action into practice: developing a questionnaire to collect data from Indigenous police forces and communities, sharing information on the project to mobilize Indigenous police forces to participate in data collection, and drafting a report slated to be tabled in 2023. MSP is collaborating on an ongoing basis with the Indigenous partners concerned in monitoring the situation, and further steps are planned.</p>
<b>32★</b>	<p>Initiate negotiations with the federal government and Indigenous authorities to agree on a budgetary envelope for upgrading Indigenous police force wages, infrastructure and equipment.</p>	<p>Negotiations are underway and several initiatives have already occurred in support of the call for action. Nevertheless, negotiations are running into difficulties, and there is some confusion as to the roles and responsibilities of the negotiation partners. As a result, no concrete commitments have yet been made. Despite these difficulties, several initiatives have been undertaken to rectify the situation. For example, in 2018, Public Safety Canada granted Québec \$29.3 million over five years. In May 2022 another \$61 million was granted, cost-funded by the federal government (52%) and by the Québec government (48%) to fund infrastructure renovations and replacements for police forces in eleven communities. Funding projects were prioritized based on the amount granted by the federal government and the state of existing infrastructure, as presented by the Indigenous communities.</p>

		<p>This is a step forward in terms of infrastructure upgrades, but updating salaries and equipment remains a challenge. Furthermore, according to MSP, the complete status report produced in response to Call for Action No. 31 will provide all the data required to support requests for budget increases when necessary. For these reasons, this call for action is currently considered to be underway, but in an unsatisfactory manner.</p>
<p><b>33</b> To Indigenous authorities</p>	<p>Assess the possibility of implementing joint purchasing policies for all Indigenous police forces in Québec.</p>	<p>QAFNIPD has approached MSP and the Centre d'acquisitions gouvernementales to find out what services they can offer. QAFNIPD is also working on a method for gathering information on the needs of Indigenous police forces in order to see how they fare in relation to the services offered by the Centre d'acquisitions gouvernementales, and then to consider the possibility of group purchasing. This call for action is therefore considered well underway.</p>

**Tripartite agreements and negotiation method**

<p><b>34</b></p>	<p>Amend section 90 of the <i>Police Act</i> to readily acknowledge the existence and status of Indigenous police forces as being similar to those of other police organizations in Québec.</p>	<p>In the wake of Bill 18, <i>Act to amend various provisions relating to public security and to enact the Act to assist in locating missing persons</i>, tabled in 2021, work was carried out by MSP and the legislative working group formed by the technical committee of AFNQL's political table on public security, on changes to be made to the <i>Police Act</i>, including amending section 90. However, this work was unsuccessful and no legislative amendments were made, as the bill was abandoned in 2022.</p> <p>In March 2023, Bill 14, <i>Act to amend various provisions relating to public security and to enact the Act to assist in locating missing persons</i>, was tabled. It was a legislative opportunity to resume the initiatives of the working group and incorporate its recommendations in connection with the previous Bill 18, which would, among other things, have made it possible to respond to this call for action. However, Bill 14 was tabled without the First Nations technical committee being consulted beforehand, and without incorporating its previous recommendations, which led to considerable dissatisfaction and a perception that establishing trust-based relations with Indigenous representatives had regressed.</p> <p>Section 10 of Bill 14 nevertheless proposes a rewording of section 90 of the <i>Police Act</i>, which – by reversing the terms – inserts the possibility for Indigenous communities to call on the government to enter negotiations and reach an agreement. Section 11 of Bill 14 also proposes amending section 93 of the <i>Police Act</i> to specify that Indigenous police forces have "jurisdiction to prevent and repress statutory offences throughout Québec [and that they] also have jurisdiction to prevent and repress offences under by-laws applicable in the territory in which it is established."</p> <p>These proposed legislative changes are initiatives that address Call for Action No. 34. However, they do not provide the status recognition sought by Indigenous police forces. Moreover, Indigenous representatives were not consulted. This is why the Québec Ombudsman considers them unsatisfactory for the purposes of this call for action.</p>
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		<p>To move forward with implementing Call for Action No. 34 and resume fruitful collaboration, the Québec Ombudsman believes it is essential to collaborate effectively and continuously with AFNQL's political table on public security in order to reach a satisfactory agreement for First Nations and Inuit on recognizing Indigenous police service status, autonomy and equality. This agreement should result in substantial amendment of section 90 of the <i>Police Act</i>. Such a status would enable Indigenous police services to secure their funding, negotiate as equals and assert their autonomy.</p>
<p><b>35</b></p>	<p>Undertake negotiations with the federal government and Indigenous authorities to ensure recurring and sustainable funding for all Indigenous policing.</p>	<p>This call for action is underway because the Québec government participates in all meetings of the federal-provincial-territorial working group on drafting federal legislation to establish the funding principles for Indigenous police services, including funding sustainability. Without being able to move negotiations forward at the pace it would like, MSP says it wants to influence the draft federal legislation by reiterating the importance of respecting provincial jurisdictions, SQ powers and funding sustainability and predictability, as well as by taking into account the situation of Inuit in Québec. In addition, the Québec government says it has repeatedly stressed the importance of considering the realities of Indigenous communities and advancing discussions with them, not just with national Indigenous organizations.</p> <p>The Indigenous partners interviewed believe that until the status of Indigenous police services is reviewed, and they are recognized as essential services, it will be very difficult to negotiate for all Indigenous police forces, as specified in the wording. Indigenous organizations say they are waiting and that negotiations are static. For these reasons, the Québec Ombudsman considers that the call for action has started to be implemented, but in an unsatisfactory manner.</p>
<p><b>36</b></p>	<p>Modify the process for allocating budget resources to police forces to reflect the needs identified by Indigenous authorities in terms of infrastructure, human, financial and logistical resources and the individual realities of the communities or territories.</p>	<p>Implementation of this call for action has not yet begun, and the budget allocation process remains unchanged. This call for action is closely linked to the implementation of previous calls for action. It will be possible to work towards its achievement now that the status report on Indigenous police services needs provided for in Call for Action No. 31 has been completed.</p>
<p><b>Mixed intervention patrols</b></p>		
<p><b>37</b></p>	<p>Assess the possibility of setting up mixed intervention patrols (police officers and community workers) for vulnerable persons, both in urban environments and in First Nations communities and Inuit villages.</p>	<p>The Québec Ombudsman does not know if an exhaustive assessment of the possibility of implementing mixed intervention patrols for vulnerable people has been carried out in all municipalities and Indigenous communities. However, in recent years there have been several pilot projects that go beyond the scope of this call for action. At SQ, work is underway to create mixed intervention teams (police and community stakeholders) (ÉMIPIC) in several municipalities, in addition to the one in Val-d'Or in operation since 2016. The Sept-Îles mixed intervention team has been in operation since June 2021, and four others</p>

		<p>became operational in 2022-2023 in Chibougamau, Roberval, Maniwaki and Joliette, via funding secured by SRPNI as part of its "J'ai espoir" plan. In addition to ÉMIPICs, mixed practice projects involving psychosocial interventions and community policing are funded under the <i>Plan d'action interministériel en santé mentale 2022-2026</i> (PAISM 2022-2026).</p> <p>As for municipal police services, five of them say they have mixed patrols to intervene with vulnerable people, while seven others say they have community workers on staff or agreements with social services to work together on operations that require it. These services are not mixed patrols as such, but active collaborations with social and community workers who join police officers in working with vulnerable populations and individuals in crisis. MSP encourages these initiatives, funds mixed psychosocial intervention teams and community policing through its Program to Support Innovation and the Development of Exemplary Police Practices and says it encourages police forces to hire social workers to optimize their operations. However, police services are critical that mixed intervention and mental health services are not unified and automatically funded by MSP for all police services in Québec. In their opinion, this creates inequity: the population of municipalities with more resources or those covered by ÉMIPIC teams receive better services, whereas the entire population would benefit.</p> <p>Finally, regarding mixed patrols in Indigenous communities, the Nunavik Police Service has a permanent mixed patrol in the village of Puvirnituk and plans to expand to five other villages by the end of 2023. In addition, specialized resources (civilian or police) for domestic and sexual violence will be set up in 15 Indigenous communities served by Indigenous police services. The aim is to better support victims and monitor offenders at all stages of the police intervention continuum. These initiatives demonstrate that the call for action is well underway. Continued reflection and evaluation regarding the implementation of mixed patrols in other municipalities and Indigenous communities will complete the process. Although MSP is not responsible for the core funding of municipal police services, the Québec Ombudsman nonetheless considers it important to ensure sustainable funding for these initiatives and to facilitate their development in all Québec police services.</p>
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**Police ethics complaints and recourse**

38	<p>Amend the <i>Police Act</i> to extend the time limit for filing police ethics complaints to three years.</p>	<p>Bill 18, <i>Act to amend various provisions relating to public security and to enact the Act to assist in locating missing persons</i>, introduced on December 8, 2021, provided for this call for action to be implemented through an amendment to section 150 of the <i>Police Act</i>. However, Bill 18 was not adopted before the end of the June 2022 parliamentary session.</p> <p>Tabled in March 2023, Bill 14, <i>Act to amend various provisions relating to public security and to enact the Act to assist in locating missing persons</i>, could have taken up the changes proposed by the previous Bill 18 regarding extension of the limitation period for filing a police ethics complaint from one year to three years.</p>
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		<p>However, Bill 14 does not propose any changes to the limitation period. Furthermore, the bill was tabled without the First Nations technical committee being consulted beforehand, and without incorporating its recommendations. This has created considerable dissatisfaction and a perception that establishing trust-based relations with Indigenous representatives has regressed.</p> <p>Call for Action No. 38 is therefore not considered to have been begun at this time. According to the Québec Ombudsman, at the very least, it would require that section 150 of the <i>Police Act</i> give the Police Ethics Commissioner the discretionary power to deem a complaint lodged after the expiry of the limitation period admissible if the circumstances warrant it. Circumstances justifying the receipt of a complaint after the one-year period should include the Indigenous context of a situation and the fact that the persons involved in the event are First Nations or Inuit. These changes would acknowledge the findings of the Viens Commission regarding the lack of awareness of existing complaint processes and the fact that First Nations and Inuit infrequently use the recourse available to them.</p>
<p><b>39</b></p>	<p>Conduct information campaigns among Indigenous populations concerning the existing complaints processes.</p>	<p>The Commissaire à la déontologie policière has already undertaken initiatives to provide information, such as translating explanatory documents into five Indigenous languages and creating a web page for First Nations and Inuit. The Commissioner wanted to do more but was unable to secure funding for the information campaign project, estimated at \$96,000 over five years. The aim of the project was to respond to Call for Action No. 39 by creating prevention tools and raising awareness of the rights and obligations of Indigenous citizens in Québec in their interactions with police officers, as well as disseminating these tools in collaboration with various key Indigenous partners. Funding for this project would have enabled a satisfactory start on implementing this call for action. In addition, the sustainability of the Commissaire à la déontologie policière's liaison officer position, whose mandate is to lead these information and awareness initiatives, is not guaranteed, as the position is only funded until 2024-2025. Other initiatives aimed at informing citizens of the various complaint processes and remedies are being implemented by certain Indigenous police organizations, notably the Nunavik Police Service and QAFNIPD.</p>

## JUSTICE SERVICES

### Indigenous Law

40	<p>Fund projects developed and managed by Indigenous authorities that are aimed at documenting and revitalizing Indigenous law in all sectors deemed to be of interest.</p>	<p>Since 1998, MJQ has supported several Indigenous community justice programs (also known as justice committees). Since 2001, it has also supported an alternative measures program for adults in Indigenous communities. These programs, developed in collaboration with Indigenous communities and organizations, offer an alternative or a complement to existing justice system structures. That said, the work of the Viens Commission also highlighted the vitality of Indigenous law and legal systems, some of whose stories and legal traditions predate the arrival of Europeans. In fact, Indigenous legal models and institutions do exist, but the transmission and knowledge of Indigenous laws were greatly affected by colonization. In some cases, communities have been left in legal limbo. The aim of Call for Action No. 40 is to support the knowledge, transmission and revitalization of these legal traditions and knowledge, in addition to community initiatives already in place.</p> <p>MJQ says it is open to analyzing demands on this subject but has no work plan to carry out this call for action, nor any programs or funds to guarantee its funding. It is therefore unable to encourage the filing of applications. On the other hand, the initiatives funded by MJQ come from Indigenous communities, and MJQ states that their priorities are more geared towards the funding of measures that provide support for direct services to the Indigenous population and improving their access to justice. Nevertheless, two recently funded initiatives address Indigenous legal traditions. These are UQAT's training program for First Nations and Inuit working or wishing to work in the justice system with Indigenous clients, and the Val-d'Or Native Friendship Centre's Anwatan project.</p> <p>The Québec Ombudsman therefore considers that this call for action has begun. However, for a favourable final assessment, dedicated resources will be needed to promote and ensure its implementation, in step with improving the direct services and support for community justice programs and alternative measures already in place.</p>
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### Community justice and alternative measures programs

41	<p>Amend the existing laws, including the <i>Act respecting the Director of Criminal and Penal Prosecutions</i>, to allow agreements to be signed to create specific justice administration systems with Indigenous nations, communities or organizations active in urban areas.</p>	<p>MJQ has initiated discussions and negotiations with certain communities and nations that have expressed an interest in creating special justice administration regimes, which is in line with the intent of Call for Action No. 41. However, no steps have been taken to amend existing legislation, including the <i>Act respecting the Director of Criminal and Penal Prosecutions</i>, as required in the call for action's wording, so that the scope of the current framework of alternative measure programs is broadened. Nor has anything been done to respond to the Viens Commission's intention to "allow communities to handle the majority of crimes involving Indigenous offenders residing in their territories, if they so desire" (CERP Final Report, p. 311).</p>
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		<p>This call for action is therefore deemed to have begun, but in an unsatisfactory manner.</p>
<p><b>42</b></p>	<p>Encourage the introduction of community justice programs and the implementation of alternative measures programs for Indigenous adults in all cities where the Indigenous presence requires it.</p>	<p>Implementation of Call for Action No. 42 has begun in a satisfactory manner. In fact, \$4 million in funding was announced in June 2021 by the Minister of Justice and the Minister Responsible for Indigenous Affairs (now Minister Responsible for Relations with the First Nations and the Inuit), for developing initiatives and the active participation of Native friendship centres in justice programs, such as PAJIC, PMRG and PAJ-SM in urban areas. This funding covers the fiscal years 2021-2022 to 2024-2025. It has enabled a three-year agreement with RCAAQ to ensure the consistency of the initiatives put in place. The Programme de mesures de rechange général pour Autochtones en milieu urbain (PMRG-A-MU) was deployed at the Val-d'Or Native Friendship Centre in June 2022 and at the Lanaudière Native Friendship Centre in November 2022. It is currently being implemented at the Trois-Rivières Native Friendship Centre, while La Tuque Native Friendship Centre is one of the next places slated for implementation. Discussions are also underway with the centres grouped under the Mamik organization in the Lac-Saint-Jean region.</p> <p>Since 2018 MJQ, has been funding the First Peoples Justice Centre of Montreal (CJPPM) so it can provide services to the Montreal Municipal Court via the Programme accompagnement justice autochtone. In addition, since spring 2022, CJPPM and the Municipal Court have been working to implement PMRG-A-MU. Discussions along the same lines with the Court of Québec were scheduled to begin in the fall of 2022. These initiatives are promising and in line with the call for action. Moreover, MJQ is sensitive to the importance of program sustainability.</p> <p>It will be important to pay particular attention to the sustainability of these services and initiatives, to consider establishing them in other cities, and to evaluate their impact, in conjunction with partner organizations. This kind of vigilance will ensure optimal, sustainable deployment of community justice programs in urban areas. Finally, to fulfill the intent of this call for action, it should be carried out in conjunction with Call for Action No. 41.</p>
<p><b>43</b></p>	<p>Set aside a sustainable budget for Indigenous community justice programs and for the organizations responsible for keeping them up to date, proportionate to the responsibilities assumed and adjusted annually to ensure its stability, factoring in the normal increases in operating costs of such programs.</p>	<p>MJQ believes in the importance of community justice initiatives in Indigenous communities. Several programs and organizations have been funded for many years, and \$7.2 million was announced on June 7, 2021, to support and strengthen various community justice initiatives in First Nations and Inuit communities between now and 2024-2025. Most of the funding for community justice programs has therefore been increased, and this substantial adjustment is in line with the call for action.</p> <p>However, the issue at stake in Call for Action No. 43 is the sustainability of funding and, on this front, MJQ's interventions are unsatisfactory, although no service breakdowns due to a lack of funding have occurred to date. MJQ says it is planning to renew its funding agreements in its budget forecasts, and that it has always supported community justice initiatives without interruption. Nevertheless, it still asks organizations to apply for funding</p>

		<p>renewals whenever their agreements expire. However, the lack of certainty as to the sustainability of initiatives leads to administrative burdens, a feeling of precariousness within funded organizations, and a reduced attraction factor for workforce recruitment.</p> <p>At present, practically no funding agreements for Indigenous community justice programs extend beyond 2023-2024. Since MJQ has been renewing its funding agreements for several years, it seems clear that it agrees with the importance of funding them, and that their relevance no longer needs to be demonstrated. The Québec Ombudsman applauds the substantial amount of funding and all the efforts made to support and implement the various community justice initiatives. However, mission-based funding for these organizations, adjusted annually and proportional to the responsibilities they assume, would ensure that their achievements are sustained and that this call for action becomes a reality. This should be done in conjunction with Call for Action No. 41.</p>
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Legal aid

<p><b>44</b></p>	<p>Amend the <i>Act respecting legal aid</i> to introduce special tariffs of fees for cases involving Indigenous people, in both civil and criminal matters.</p>	<p>Implementation of this call for action began in 2020 with the signing of agreements to increase fees by 5% for lawyers providing services in a region or locality served on an Itinerant basis in the judicial district of Abitibi or Mingan. The issuance of legal aid mandates and the billing of air travel expenses for lawyers in private practice working on cases heard by the Itinerant Court in the Basse-Côte-Nord region has also become more flexible. However, these interesting initiatives do not concern all judicial districts or all types of cases involving Indigenous peoples. In addition, no changes have been made to the <i>Legal Aid Act</i>, as requested in Call for Action No. 44.</p> <p>To plan the next steps, MJQ is currently analyzing the recommendations of the Groupe de travail indépendant sur la réforme de la structure tarifaire de l'aide juridique report, released on June 6, 2022, as well as the Latraverse Report for improving the justice system in Nunavik. Although the projects carried out to date are in line with the intent of the call for action, the Québec Ombudsman considers them insufficient. As worded, this call for action specifies comprehensive action across the entire territory and in all cases involving Indigenous peoples.</p>
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## Itinerant Court

45★

Invest in developing premises adequate to the exercise of justice in each of the communities where the Itinerant Court sits, as soon as possible.

MJQ is currently working with the community of Matimekush-Lac John to identify spaces that could be developed and used by the Itinerant Court in the future community centre (following the fire at the previous one). A survey is also underway to identify the development needs of each of the communities where the Itinerant Court sits. Once these needs have been identified, the Société québécoise des infrastructures will have to be approached concerning assessment of the anticipated costs and timetable.

In 2020, MJQ also set up a working group to identify needs in the Nunavik communities visited by the Itinerant Court, and to follow up on the problems reported by the latter. MJQ has also signed occupancy agreements with the communities of Kangirsuk, Kangiqsujaq, Kangiqsualujjuaq and Quaqtaq for when the court is in session there. In Kangiqsujaq and Kangiqsualujjuaq, renovations and the acquisition of equipment have improved the confidentiality of lawyer-client meetings, sound quality and traffic flow in the facilities. In addition, a waiting area for victims has been set up.

In the case of the Cree communities, the infrastructure is the property of the Cree Nation Government, and issues are monitored by MJQ's Direction régionale des services judiciaires or by the regional operations coordination committees. Lastly, discussions are underway concerning the development of premises in the community of Manawan. Given the wording of the call for action demanding initiatives and investment as soon as possible to remedy the infrastructure problem, the Québec Ombudsman considers that current initiatives to implement Call for Action No. 45, although already underway, are unsatisfactory. Many are still at the stage of identifying and analyzing needs, or of signing agreements.

The Québec Ombudsman is aware of the issues related to the time-frames and complexity of building new infrastructure in Nunavik. However, to move forward with this call for action as intended, it would be important to establish an intervention plan for each of the locations where the Itinerant Court sits. This would provide an accurate picture of location and development needs, of the resources required and of the results to be achieved, with timetables to determine whether the work is being done as quickly as possible, as advocated by the Viens Commission.

## Diversion and judicial support for vulnerable people

46

To towns and municipalities

Stop incarcerating people who are vulnerable, homeless or at risk of becoming homeless for non-payment of fines for municipal offences.

At the time this report was being written, the Québec Ombudsman did not have sufficient information from cities and municipalities to assess the implementation of this call for action.

However, MJQ is ready to collaborate with municipalities interested in deploying a PAJIC. MJQ also provides financial support to urban Indigenous organizations interested in collaborating in rolling out this program.

<p><b>47</b></p> <p>To towns and municipalities</p>	<p>Set up a PAJIC for people who are vulnerable, homeless or at risk of becoming homeless.</p>	<p>At the time of the Viens Commission report, three PAJIC programs were in place in Montréal, Val-d'Or and Québec City. The Val-d'Or program was co-developed with the Native Friendship Centre. Since then, other PAJIC programs have been set up in Trois-Rivières, Sherbrooke and Saint-Jérôme. MJQ has also initiated discussions with the municipal courts of Gatineau, Chibougamau, Granby, Shawinigan, Lévis, Longueuil and Boisbriand about deploying PAJIC in these municipalities in the future. In each city where a PAJIC is established, a community organization is designated to welcome participants, develop intervention plans, carry out follow-ups and link up with the municipal court. MJQ provides funding to these organizations in exchange for their services. Regarding the funding of PAJIC programs, based on the information received, we do not know if funds are planned for beyond 2023 in cities with existing programs.</p> <p>The Québec Ombudsman therefore considers the call for action to be proceeding in a satisfactory manner but urges MJQ to provide long-term, sustainable funding for these initiatives throughout Québec. In addition, it is important to ensure that PAJIC programs meet Indigenous people's specific needs, especially when they are deployed in certain municipalities with community organizations other than Native Friendship Centres. As part of its follow-up, the Québec Ombudsman will seek feedback from community organizations, as well as from the municipal courts responsible for PAJIC programs.</p>
<p><b>48</b></p>	<p>Amend the <i>Code of Penal Procedure</i> to stop the incarceration of people who are vulnerable, homeless or at risk of becoming homeless for non-payment of fines for municipal offences.</p>	<p>Section 347 of the <i>Code of Penal Procedure</i>, which provides for imprisonment for non-payment of fines, was amended in 2020: from now on, the possibility of imprisonment is limited to cases where the judge is convinced that the defendant has, without reasonable excuse, refused or neglected to pay the sums due. Now the inability to pay constitutes a valid reason for not going to prison for non-payment of fines. This provision is thus consistent with and fulfills the intent of Call for Action No. 48, which is considered implemented.</p>
<p><b>49</b></p>	<p>Provide sustainable funding to PAJICs for people who are vulnerable, homeless or at risk of becoming homeless.</p>	<p>As mentioned in Call for Action No. 47, PAJIC programs are already in place in the following cities: Montréal, Québec City (IMPAC program), Val-d'Or, Trois-Rivières, Sherbrooke and Saint-Jérôme. However, the Québec Ombudsman does not know if any funding is planned beyond 2023. Apart from PAJIC programs, and funding of community organizations to support vulnerable people, there are other measures for the same purpose. These include people who become homeless when they leave prison.</p> <p>These measures are included in the <i>Plan d'action interministériel en itinérance 2021-2026</i> (PAII 2021-2026) and the 2022-2027 FNI Action Plan. The Québec Ombudsman does not know if funding for these initiatives will be renewed. It therefore considers Call for Action No. 49 to be underway as intended. However, to consider it completed, funding will have to be renewed to meet the long-term thrust required by this call for action, provided these programs have positive spin-offs.</p>

## Virtual hearings

50★

Institute the use of video-conferences for bail hearings as soon as possible for accused persons in remote areas, particularly in Nunavik.

Implementation of this call for action is well underway, with several ongoing initiatives: in Nunavik, a videoconferencing system has been set up in the communities of Kuujjuaq, Kuujuarapik and Puvirnituk, virtual sessions of the Itinerant Court have been held in four communities (thanks to temporary bandwidth upgrades), and work is underway to upgrade the network and make fiber optics operational in the Hudson Bay coast communities south of Puvirnituk. However, connection glitches occur often, making it impossible to use the equipment. In addition, two police officers had to be hired full-time to manage the videoconferencing system in Puvirnituk and Kuujjuaq. Additional cells would be needed in Puvirnituk to optimize the situation. Extending the video-conferencing system to all Nunavik communities would pose a major workforce challenge for the police service. Nevertheless, the communities of Inukjuaq and Salluit at least should be served, as the volume of people concerned would justify it.

As for the other remote communities, all Cree justice centres are equipped with a videoconferencing system and sufficient bandwidth. Virtual hearings are held in Opitciwan and occasionally in Rapid Lake. In addition, a network amplifier is used in Kawawachikamach and Matimekush. The use of Teams is also possible for the Itinerant Court in isolated Côte-Nord communities, but this sometimes affects community bandwidth. However, the Québec Ombudsman has not received an exhaustive list of all Indigenous communities considered to be "remote," which makes it difficult to accurately assess the number of communities that should have videoconferencing.

In short, implementation of this call for action is well underway, but it requires continued deployment in all communities where it is deemed relevant. Connection quality must be improved quickly.

## Gladue Reports

51

Set aside a budget envelope earmarked exclusively for the writing of Gladue reports and increase the remuneration for all writers.

An exclusive budget is in place within MJQ for all invoices submitted by Gladue report writers. A sum of \$2.9 million was announced on June 7, 2021, allocated for fiscal years 2021-2022 to 2024-2025. This funding is intended to increase the remuneration of writers under contract for Gladue reports. This sum has made it possible to hire new writers and increase their salaries from \$50 to \$62.50 per hour, for a maximum of 20 hours per report. This represents an increase of up to \$250 for each Gladue report. According to MJQ, steps will be taken after the deadline to renew the budgets. Representatives of an Indigenous organization pointed out that, despite the increase, the amounts allocated are lower than the rates paid in other provinces.

In their view, additional amounts should be budgeted to adequately meet demand and provide for new expenses, such as funding the production of Gladue letters, which will be used more and more. If Call for Action No. 51 is to be fully implemented, it will be important to make funding sustainable beyond 2025, and to ensure that remuneration increases are in line with the needs and demands of accredited organizations and writers.

<p><b>52</b></p>	<p>Increase the number of writers authorized to produce Gladue reports.</p>	<p>A budget of \$2.9 million was announced by MJQ in June 2021 for producing Gladue reports. Of this amount, \$350,000 was used to hire five full-time Gladue writers in the Inuit and Eeyou/Eenou communities, as well as at NPJSQ and the First People's Justice Centre of Montreal. These resources will be funded until 2024-2025. MJQ says that it is contemplating funding renewal. It considers that the positions created will meet current demand. However, to deal with the foreseeable increase in demand, the training that will be offered by UQAT, and which received \$450,000 in funding in 2021-2022 from MJQ, will enable new Gladue writers to be trained, who, in turn, will then be able to work as self-employed writers. In addition to hiring five new people, MJQ's budget also enabled NPJSQ to train ten other people to write Gladue reports across the different regions of Québec. So that there is always a bank of self-employed writers to meet growing demand, a steady increase in the training budget would be useful.</p> <p>It should be noted that there are currently close to one hundred Gladue writers trained in Québec since 2015 (some 50 of whom are working), in both urban and community settings. However, the Québec Ombudsman does not know if these efforts are helping to train and hire Indigenous persons, a wish expressed by some Indigenous representatives.</p> <p>According to feedback from a consultation by AFNLQ and FNQLHSSC on a regional justice strategy, representatives of First Nations communities and legal experts maintained that recent hirings were patently insufficient to meet communities' needs and to improve access to Gladue reports for First Nations and Inuit subject to judicial control.</p> <p>In short, with the hiring of the five people, the training of new resources at NPJSQ and the funding of a new training program at UQAT, this call for action is considered to be well underway, given that the number of people authorized to produce Gladue reports has increased in recent years. Nonetheless, the Québec Ombudsman encourages the pursuit of efforts in this direction, and the sustainability of current resources so that the use of Gladue reports in Québec will increase and meet the needs of communities as well as growing demand.</p>
<p><b>53</b></p>	<p>Fund the organizations involved in producing Gladue reports so that they can enhance and standardize the training provided to accredited writers, in cooperation with Indigenous authorities.</p>	<p>MJQ financially supports several initiatives and organizations staffed with accredited Gladue report writers, such as NPJSQ and Taïga Vision, which are authorized to train Gladue report writers in Québec. To standardize Gladue report-writing training, MJQ is also collaborating with UQAT on developing a training program for Indigenous practitioners wishing to work with First Nations and Inuit clients. This program includes a specialization course for future Gladue report writers. A sum of \$450,000 was invested in this training in 2021-2022, and MJQ plans to support the development and deployment of the training with some \$250,000. MJQ is also reviewing its accreditation standards.</p> <p>In addition, a web platform (Nation-Action) has been set up to promote exchange and ongoing training between Gladue report writers. This platform includes a series of continuing education</p>

		<p>capsules. A new series aimed at "Gladue letters," which MJQ calls "Gladue summaries," was in production in 2022. Call for Action No. 53 is therefore considered to be well underway, and sustained funding adjusted to the organizations' needs would ensure that it is fully implemented.</p>
<p><b>54</b></p>	<p>Periodically review the quality of work done by Gladue report writers, in cooperation with Indigenous authorities.</p>	<p>Internal supervision services for Gladue report writers and editors are already available within the main organizations responsible for coordinating Gladue report production, such as Makivvik Corporation, NPJSQ, the Cree Nation Government, the Mohawk Council of Akwesasne and the Conseil de la Nation Atikamekw. Self-employed writers also have access to an editing service. In addition, MJQ is in the process of carrying out an overall independent assessment of the quality of Gladue reports.</p> <p>This process is aimed specifically at responding to Call for Action No. 54 by assessing a sample of Gladue reports that will make it possible to determine the efforts needed to improve future reports. The evaluation report was slated to be presented to the partners in question in spring 2023. It will be important to take this overall assessment into account, as well as to continue providing supervision and report review services.</p> <p>The Québec Ombudsman therefore considers this call for action implemented. For it to remain so, it will be necessary to ensure that further assessments are carried out periodically, and that the recommendations arising from these assessments are implemented.</p>
<p><b>55</b></p>	<p>Provide for Gladue letters to be written automatically whenever an Indigenous person enters the system and provide funding therefor.</p>	<p>Gladue letters, which MJQ refers to as "Gladue summaries," can be ordered by the courts when a sentence of fewer than 120 days is being considered. MJQ is currently revising its Gladue report writing guide. To make it easier to process these requests, this update will include a short procedure for Gladue summaries. It is not anticipated that use of Gladue summaries will be systematic. Instead, this will depend on the requests made by the court and the consent of the person concerned. As far as funding is concerned, a maximum fee of \$250 per letter is being considered. As this possibility is relatively new, according to MJQ, only one Gladue summary had been produced at the time this report was being written.</p> <p>The Québec Ombudsman considers that the call for action has begun, but not in a satisfactory manner because although the production of Gladue summaries is permitted, the means to systematize and increase their use are lacking. Lack of precision about the total budget that would be devoted to it, lack of training for Gladue summary writers and judges' lack of awareness of this possibility are cited. To ensure everyone is on the same page concerning the purpose of Gladue letters and the contexts in which they will be written, it will also be important to consult the Indigenous partners and organizations that draft Gladue reports and employ courtworkers.</p>

**CORRECTIONAL SERVICES**

**Pre-sentencing report and evaluation tools**

<p><b>56</b></p>	<p>Train all Québec probation officers to prepare Indigenous pre-sentencing reports and teach them the reassuring cultural approach for collecting information.</p>	<p>All probation officers assigned to prepare Indigenous pre-sentencing reports (PSRs) across Québec have received training in drafting them. This represents 33% of all probation officers in the province. However, current training does not include a specific component on the culturally safe approach to data collection. Be that as it may, another recent training course, developed in collaboration with Indigenous partners, includes content on cultural safety. By March 2024, it will be delivered to correctional service officers and unit managers working in detention facilities. The MSP agents who will dispense the training were themselves trained in December 2022, and groups of professionals have since begun to receive it.</p> <p>To complete implementing this call for action, it would be important for this new training to also be provided to all probation officers, within a similar timeframe and on an ongoing basis, and for all probation officers to be trained in drafting Indigenous pre-sentencing reports, whether they are assigned to it or not.</p>
<p><b>57</b></p>	<p>Develop an assessment tool specific to Indigenous offenders with the collaboration of experts from First Nations and Inuit peoples.</p>	<p>To replace the LS/CMI (Level of Service - Case Management Inventory) actuarial assessment tool, correctional services have been using the new RBAC-PCQ tool since 2019 to assess offenders. The tool has been gradually extended throughout the correctional network and an Indigenous component has been added for assessing Indigenous offenders. This component is based on the same principles as the Indigenous component integrated into the pre-sentencing reports used by probation officers for several years now, and staff have been trained in this new component of the RBAC-PCQ tool. University experts contributed to developing RBAC-PCQ, but no Indigenous experts were specifically consulted. In 2023, MSP intends to find an Indigenous expert in criminology, research and actuarial tools, ideally from a university environment, who can provide expertise on adapting RBAC-PCQ, if this is needed.</p> <p>Thus, although an Indigenous component has been integrated into the new assessment tool, it is not possible to know how well this tool is adapted to Indigenous realities. Moreover, we do not appear to be moving towards creating a specific assessment tool for Indigenous offenders, as advocated in the wording of Call for Action No. 57, but rather towards adapting an existing tool. Further information will be needed to judge whether implementation of this call for action is satisfactory.</p>



Intermittent sentences		
<b>58</b>	Implement, as quickly as possible, and in all regions of Québec, alternative measures to incarceration for people sentenced to an intermittent sentence, including sustainable funding.	MSP is currently reflecting on the administration of sentences, both in institutions and in the community, as well as reintegration for Indigenous offenders. Various solutions will be analyzed, including alternative measures to incarceration. Discussions are taking place with MJQ on this subject, and, with a view to concerted action, it has been agreed that the two departments will work together to seek solutions to the problems raised in this call for action. When it comes to addressing alternative measures to incarceration for convicted First Nations and Inuit offenders, these deliberations will have to include the viewpoint of the Indigenous organizations concerned. So far, no concrete public action has been taken, and no funding appears to be forthcoming.
Transfers		
<b>59</b>	Measure and report annually on the situation regarding transfers of Indigenous inmates, in collaboration with partner Indigenous organizations.	<p>MSP intends to report on the situation regarding transfers of Indigenous inmates as part of the correctional statistics published annually on its website. The wording per se of the call for action should then be respected. However, to also meet the intent of Call for Action No. 59, in keeping with the Québec Ombudsman's analysis criteria, these data should be collected so as to make it possible to quantify the effectiveness of the measures implemented in the medium and long term in certain regions and institutions. In addition, the data should provide a means of determining whether other corrective and concrete actions need to be implemented concerning the transfer of Indigenous inmates.</p> <p>As a result, qualitative analyses will have to be carried out based on these statistics so that the effectiveness of current measures can be gauged. Finally, as advocated in the wording of Call for Action No. 4, it will be important to glean the opinion of all the Indigenous partners concerned in the process, Inuit and First Nations alike. For the sake of consistency, it will also be necessary to correlate the gathering of this information with Call for Action No. 4, which concerns the collection of ethnocultural data. Call for Action No. 59 is therefore considered to be well underway, but there are still improvements to be made in order to meet the objective set by the Viens Commission.</p>
Maintaining family ties		
<b>60</b>	Set up a program to finance family travel when the government has no choice other than to incarcerate an inmate in a provincial establishment far from their residence or home community.	MSP is committed to pursuing the measures already in place to maintain contact between inmates and their families. In particular, MSP's Sous-ministériat des services correctionnels (SMSC) set up a video visit system for all Québec inmates in the summer of 2020, in the context of the pandemic. Although this is a practical measure that will ensure contact between inmates and their families (provided the latter have access to an Internet connection and adequate equipment), it does not meet Call for Action No. 60 requirements. As for funding family travel, nothing has yet been done, and MSP says that it is not within its purview to ensure that families are able to travel for visits to detention facilities. Nevertheless, MSP is ready to collaborate with other partners to make representations to the government to develop a program for that purpose.

<p><b>61</b></p>	<p>Allow videoconference communications between inmates and their family members when there is no choice other than to incarcerate an inmate in a provincial establishment far from their residence or home community.</p>	<p>In 2020, MSP set up a permanent video visit system in all detention facilities. If inmates are unable to contact their loved ones because the Internet connection is not functional in their communities, the detention facility offers the service by telephone, free of charge. This situation should improve with the arrival of fiber optics in Nunavik in 2022-2023.</p> <p>Nonetheless, Indigenous partners have mentioned that the video visit system is difficult to access in some facilities due to a lack of staff to operate it. In addition, according to them, the communities from which the incarcerated persons come are not always adequately equipped to use this system. Agreements could be made with Indigenous authorities to provide access to this system in the communities.</p> <p>For all these reasons, the Québec Ombudsman considers that this call for action is well underway, but that certain improvements need to be made before it can be considered implemented.</p>
<p><b>62</b></p>	<p>Modify the rules in effect regarding telephone calls so that long-distance calls can be made at the same cost as local calls.</p>	<p>Some measures have been put in place, such as lower long-distance call rates for all inmates and the introduction of the video visit system. There is also the possibility of making calls from staff members' offices when videoconferencing does not work in the community, or when an inmate has absolutely no means of paying for long-distance calls.</p> <p>Although these measures are concrete and ensure contact between inmates and their loved ones, the Québec Ombudsman considers them unsatisfactory for this call for action. Several factors stand in the way: videoconferencing is not as accessible and effective for families and Indigenous communities as the telephone, rates remain higher for long-distance calls than for local calls, and the loan of telephones, where necessary, is not a uniform solution that would rectify the situation.</p> <p>Moreover, NPJSQ says it receives between 200 and 225 calls a month to its toll-free number from inmates seeking to reach people in their community, through their courtworker, without having to pay for their long-distance calls. This shows that the measures taken by correctional services are not satisfactory. According to MSP, the recommendations of the Fonds central de soutien à la réinsertion sociale on possible solutions will shed new light on the issue and enable additional measures, if necessary.</p>

**Detention environment and conditions**

<p><b>63★</b></p>	<p>Immediately implement all the recommendations set forth by the Québec Ombudsman in its special report on detention conditions, administration of justice and crime prevention in Nunavik.</p>	<p>Most of the recommendations made to MSP and MJQ by the Québec Ombudsman have been implemented in recent years. A few are still in the works, and additional audits are planned to assess the sustainability of certain interventions, as well as their presence throughout the territory concerned. The Québec Ombudsman therefore considers that implementation of this call for action is well underway.</p>
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64★

Launch a committee, as soon as possible, in collaboration with Indigenous authorities, on improving detention conditions for Indigenous women, from the time of their arrest until their liberation.

MSP is open to the idea of a comprehensive project on Indigenous women's trajectory through the entire legal process, from arrest to release. It therefore intends to work with other partners, including Indigenous women's resources. However, for the time being, no comprehensive project has been launched, despite the urgent need for action expressed in the Viens Commission report.

Nevertheless, some initiatives undertaken in recent years to improve prison conditions for women, including Indigenous women, are noteworthy. These efforts are a starting point but are deemed insufficient to fully meet the intent of Call for Action No. 64.

Since 2016, work on the specificity of female incarceration has been underway, in collaboration with the Elizabeth Fry Society. The aim is to develop an innovative model for managing women's incarceration, equip correctional service staff and develop a gender-sensitive approach to better support incarcerated women. The ELLES project has the same aims: to better equip correctional service staff and develop a gender-sensitive approach to better support women in prison. In addition to this work, which concerns women of all origins, SMSC conducted a survey in the spring of 2021 to determine the needs or interests of Indigenous women in terms of activities and services offered in detention facilities, with a view to building a new detention facility adapted to the female clientele. However, some Indigenous partners say they were contacted at the last minute and were unable to participate in the process.

Construction of the new women's facility, scheduled for 2030, was confirmed by MSP on December 19, 2022. Facilities adapted for Indigenous women are planned. In addition, as part of the 2022-2027 FNI Action Plan, SMSC is responsible for a measure designed to "establish specialized intervention services for Indigenous women in prison with a history of sexual or conjugal victimization." For this purpose, MSP has signed a three-year agreement with NPJSQ to provide a resource to intervene with incarcerated Indigenous women who have experienced victimization. The aim is to support these women in their process of healing and to facilitate their return to their communities. In addition, the recently published *Towards Collective Healing: Addressing the experiences of Indigenous women in Quebec's provincial prisons*, funded in part by MSP, provides a portrait of the realities of incarcerated Indigenous women in Québec. This document could nurture deliberations on how to improve prison conditions, but the Québec Ombudsman does not know what MSP intends to do with the results of this research.

While some measures to improve services and prison conditions for Indigenous women have been carried out or are planned, the overall project remains unfinished. The Québec Ombudsman therefore considers this call for action started, but in an unsatisfactory manner.

Healthcare and medical files

<p>65</p>	<p>Extend the obligations regarding health care to all medical personnel working with inmates, by regulation or legislative amendment.</p>	<p>The transfer of responsibility for healthcare in prisons from MSP to MSSS (CISSSS/CIUSSSs) was finalized on April 1, 2022. The services covered by this transfer are described in the document <i>Balises élaborées par le MSSS et le MSP applicables aux services de santé en milieu carcéral dans le cadre du transfert de responsabilité</i> (March 2019). It includes the provision of medical services in provincial prisons. This call for action is considered implemented.</p>
<p>66</p>	<p>Recognize that inmates' medical files belong to them and computerize these files using <i>Dossier santé Québec</i>.</p>	<p>HSSS institutions are now responsible for prison health services. That said, inmates' medical records are now subject to the legislative framework in force, notably LSSSS. As a result, the information in these files "belongs" to the users themselves, i.e. to the people incarcerated, as requested in Call for Action No. 66.</p> <p>As for computerizing these files, initiatives are planned for the next few years: inventory of the status of each detention facility and plans to implement the <i>Dossier santé numérique</i> within the next five years. In the meantime, a project to develop a "single" prison medical record of the electronic medical record type would enable information sharing and service continuity in interinstitutional transfers to be vastly improved. However, at the time this report was being written, the situation varied from one CISSS/CIUSSS to another. Moreover, in most detention facilities, medical records are still in paper format, which is deemed unsatisfactory in terms of this call for action.</p>
<p>67</p>	<p>Permit the inmates' complete medical files to be shared with the competent authorities during transfers or releases, by regulation or legislative amendment.</p>	<p>Given that CISSSSs or CIUSSSs are now responsible for prison health services, sharing of health and social services information is provided for in the legislative framework in force in Québec, both in terms of interinstitutional transfers and within the framework of Santé Québec files. However, even if this sharing is now provided for, it is often lacking, notably due to the way detention facilities operate, as well to communication breakdowns between prison computer systems and those of health services under CISSS and CIUSSS jurisdiction.</p> <p>Pending implementation of the initiatives directed towards Call for Action No. 66, the transfer of responsibility alone is not effective and does not produce the desired corrective action. As a result, the intention of Call for Action No. 67 to share files is not being met in a satisfactory manner.</p>

## Rehabilitation and culturally comforting activities

<p><b>68</b></p>	<p>Extend to all correctional facilities in Québec the offer of culturally comforting activities for their Indigenous clients, such as craft workshops, meals with traditional foods, sharing circles, access to a sweat lodge and spiritual support provided by Elders.</p>	<p>Implementation of this call for action is well underway, notably with the signing of agreements with various Indigenous organizations. These agreements make it possible to offer culturally secure support services in detention facilities, cultural activities and visits by Elders to incarcerated Indigenous people. These services exist in nearly 75% of Québec's detention facilities, with varying degrees of scope and frequency. Measure 6.2 of the 2022-2027 FNI Action Plan calls for providing "services and conditions for Indigenous people in detention facilities that are more likely to promote a process of rehabilitation or healing, using a culturally adapted approach." This will therefore remain an important measure for the government, and it will be interesting to see what action is taken in this direction.</p> <p>For this call for action to be fully implemented, these services should be made permanent and offered in facilities where they are not currently available, according to the needs identified by Indigenous partners. We also need to ensure that services are fully resumed in a post-pandemic context, particularly for Inuit inmates. In addition, it is essential that it be possible for all Indigenous organizations wishing to offer culturally safe services to sign such agreements.</p>
<p><b>69</b></p>	<p>Identify, for each Indigenous people, Elders interested in intervening in correctional environments and register them in a shared bank of resources that the correctional authorities can consult.</p>	<p>Indigenous authorities do not have such a list in a shared resource bank for correctional services to refer to. However, some Indigenous organizations do have their own list of trusted Elders with known ties to their communities who offer their services in detention facilities. However, more information is needed to provide a complete picture of the situation. This call for action is therefore considered as being analyzed.</p>
<p><b>70</b></p>	<p>Establish guidelines for the security verification of Indigenous sacred objects, in collaboration with Indigenous authorities.</p>	<p>According to MSP and the Indigenous partners we met, this call for action does not correspond to the realities in Québec prisons, where pat searches of visitors are not systematically carried out. As a result, there are no guidelines in this regard. The reality is different in federal penitentiaries. Nevertheless, in 2019, all detention facilities received a memo, informing them that when visiting incarcerated people, Indigenous Elders are likely to use sacred and spiritual objects. These must first be approved by internal detention officials. The authorities of ten prisons met with Elders and Indigenous organizations to discuss this issue. The Indigenous partners consulted spoke of good cooperation, and no problems were reported in connection with verifying sacred objects.</p> <p>The Québec Ombudsman considers that the situation is not problematic, and that this call for action was not intended to correct a situation, but rather as pre-emptive. A memo is a good idea, but it is not necessarily sustainable. Work should continue by developing guidelines for verifying the security of Indigenous sacred objects, as provided for in the wording of Call for Action No. 70.</p>

<p><b>71</b></p>	<p>Train correctional officers to recognize Indigenous sacred objects, in collaboration with Indigenous authorities.</p>	<p>To date, initiatives include a memo sent in 2019 to the staff of detention facilities. In addition, the authorities of the ten establishments that collaborate with NPJSQ have met with Indigenous support workers and Elders who offer their services there. The purpose was for them to present the sacred objects, their meanings, their usefulness and how they should be inspected by the officers if necessary. These initiatives are in line with the intent of the call for action, which is to respect the sacred nature of certain objects and to prevent any unfortunate problems during pat searches by correctional officers.</p> <p>In addition, reminders are planned as part of the training developed in collaboration with Indigenous partners to be given to correctional staff working in detention facilities. Training of the MSP agents who are instructed beforehand and who in turn pass this on to their co-workers, and training of Indigenous support workers, has been completed. Staff training will begin shortly in the various facilities and is scheduled to run until 2024. It will then be given systematically to new staff members. This training will make it possible to respond to and complete the implementation of Call for Action No. 71. This call for action is therefore considered to be well underway.</p>
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**Release**

<p><b>72</b></p>	<p>Ensure availability in urban environments of places reserved for Indigenous clients in existing residential community centres or, if necessary, conclude an agreement with an Indigenous organization to create this type of resource.</p>	<p>Since 2021, work has been carried out in response to this call for action, including an analysis of the need for places in urban Community Residential Centres (CRCs), consultations with certain CRCs and Indigenous organizations, and a cost estimate for the measure. As a result of this work, MSP decided to reserve a total of 20 places in 10 CRCs across Québec, and these places have begun to be filled. Measure 6.1 of the 2022-2027 FNI Action Plan aims to implement this call for action. In addition, to promote reserved spaces in CRCs and adaptation or enhancement of services for Indigenous clients in these environments, a communications strategy is also planned for the correctional network, the Commission québécoise des libérations conditionnelles and the judiciary.</p> <p>However, the Indigenous partners consulted point out that it will be imperative to adapt the CRCs in question to make them culturally safe because Indigenous clients often refuse to go there because the resources have nothing concrete to offer them. In addition, since there is currently no resource that meets of the specific needs of Indigenous women, one should be established.</p> <p>Call for Action No. 72 is therefore off to a satisfactory start, but the input of Indigenous partners, cultural safety considerations and ongoing assessment of the need for reserved spaces will be essential going forward.</p>
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73

Modify the *Act respecting the Québec correctional system* to include different processes and evaluation criteria for Indigenous offenders who address the Commission québécoise des libérations conditionnelles.

MSP considers it unnecessary to amend the *Act respecting the Québec correctional system* because several initiatives have been put in place to meet the objectives of this call for action, namely: the addition of an Indigenous component to the new RBAC-PCQ tool, new support services for Indigenous inmates in detention facilities, and a new formal policy thrust stipulating that Indigenous support workers are systematically consulted as part of the process of assessing inmates who have used their services, notably with a view to developing a correctional intervention plan.

These actions, while interesting, do not respond to the wording of Call for Action No. 73 requesting structural changes to the Act to ensure that the specific realities of Indigenous inmates are considered when they apply for parole. The solutions proposed by MSP are therefore unsatisfactory. In fact, since the Indigenous component of the RBAC-PCQ tool has not been provided and has not been produced in collaboration with Indigenous experts, it cannot be said that it addresses the issue raised here.

In addition, since the accompaniment service for Indigenous clientele is not present in all detention facilities, it is impossible to guarantee that all incarcerated Indigenous people will be properly assisted in developing their correctional intervention plan. The role of Indigenous support workers in designing such a plan is relevant and desirable, but not all Indigenous inmates have a support worker. Moreover, these workers are not systematically consulted as planned. Thus, the measures proposed by MSP solve part of the problem raised but do not completely resolve the issue.

## HEALTH SERVICES AND SOCIAL SERVICES

### Cultural safety

74	<p>Amend the <i>Act respecting health services and social services</i> and the <i>Act respecting health services and social services for Cree Native persons</i> to enshrine the concept of cultural safeguards in it, in cooperation with Indigenous authorities.</p>	<p>After going back on its proposal to include the notion of cultural safety in the LSSSS, in summer 2022, SRPNI held meetings with Indigenous representatives regarding a possible bill. In December 2022, the government's intention was now to adopt a full-fledged law on cultural safety by the end of the parliamentary session, which would amend the current legislative framework for health and social services. Further consultations with Indigenous representatives, attended by MSSS representatives, took place in February and March 2023. A draft bill on cultural safety was then analyzed by SRPNI, and a table on reviewing the legislative framework applicable to the Cree Board of Health and Social Services of James Bay (CBHSSJB) was formed.</p> <p>For their part, representatives of Indigenous organizations took a stand in April 2023, essentially criticizing the government for not involving them sufficiently in the reflection process leading up to the drafting of this bill. They say that, as a result, the government is depriving itself of their knowledge and expertise in defining how public service employees will achieve cultural safety.</p> <p>These developments show that Call for Action No. 74 has begun to be implemented, but that close collaboration with a range of Indigenous authorities is still required to ensure that the diverse needs and viewpoints of First Nations and Inuit on cultural safety are taken into account.</p> <p>It should be noted that Bill 32, <i>Act to establish the cultural safety approach within the health and social services network</i>, was tabled on June 9, 2023. Among other things, it proposes an obligation for health and social services institutions to adopt safe practices for First Nations and Inuit, and to report to the Minister on this subject. The Québec Ombudsman will pay close attention to developments on this front.</p>
75	<p>Encourage the health and social services network institutions to set up services and programs based on cultural safeguard principles developed for Indigenous peoples and in cooperation with them.</p>	<p>MSSS has made implementing cultural safety in health and social services network (HSSN) institutions one of its main priorities. All initiatives in this direction are based on the work of the Comité avisur sur la sécurisation culturelle, which led to the production of the guide <i>La sécurisation culturelle en santé et en services sociaux : vers des soins et des services culturellement sécurisants pour les Premières Nations et les Inuit</i>. Efforts to encourage implementation of programs based on cultural safety principles gained momentum after a five-year investment of \$15 million in November 2020 to carry out work in the following four areas was announced: training and raising awareness of Indigenous realities among HSSN institutions staff, setting up service navigators and liaison officers, deploying best practices in a cultural safety approach through a call for projects to institutions, and supporting Indigenous service users by adapting the procedures set out in the complaints examination system.</p>



This work is based on the *Plan global d'implantation en sécurisation culturelle 2020-2025* produced by MSSS in close collaboration with the Advisory Committee. The working groups set up for each of these areas consist of Indigenous partners and other participants, including HSSN institutions and experts. According to MSSS, the work is carried out in consultation and in compliance with the principles adopted by the Advisory Committee, including co-construction.

In terms of raising awareness, mandatory 90-minute training has been available since June 2021, but the target of 100% of HSSN employees having taken this training by September 30, 2022, has not been met. As of February 25, 2023, 84.25% of HSSN employees had taken it, or another training course considered minimally equivalent. Still in February 2023, in terms of HSSN staff deployment, MSSS had almost reached its target of funding the hiring of 17 liaison officers and 17 service navigators. This is being carried out in collaboration with Indigenous partners. The call for projects aimed at implementing best cultural safety practices led to 23 projects in 20 institutions being funded. Finally, a committee on adapting the complaints examination system to cultural safety began work in May 2022. Its aim is to improve information on the complaints examination system from a cultural safety perspective.

These projects are important steps forward because they will help generate more equitable and culturally safe access to health care and social services for First Nations and Inuit. The participation of Indigenous partners in the advisory committee and working groups is also positive. However, some criticisms remain.

Firstly, funding is set over five years, making the sustainability of cultural safety actions uncertain. In addition, although the implementation plan was developed and deployed in close collaboration with an advisory committee made up, among others, of Indigenous partners, some pointed out that the definitions of key concepts, the policy thrusts to be favoured and the projects to be evaluated were often decided in advance and were only presented to the committee for approval after the fact. It would have been better to make the needs and priorities expressed by the Indigenous partners a starting point, as they would have wished.

Call for Action No. 75 is therefore well underway. However, for it to be considered fully implemented, the next major strides in implementing cultural safety in HSSN will have to be undertaken with Indigenous partners, taking into account their diverse priorities, and staff training efforts will have to continue with a view to truly transforming network practices.

76	Provide sustainable funding for services and programs based on cultural safeguard principles developed for Indigenous peoples.	<p>As described in Call for Action No. 75, MSSS has invested \$15 million over five years to support cultural safety initiatives in HSSN. MSSS's work plan for this call for action refers to the <i>Plan global d'implantation en sécurisation culturelle 2020-2025</i>. This funding is consistent with the intent of the call for action. However, for the time being, given the current administrative framework and practices (which require public administrations to wait a few years before confirming a project's continuity and long-term funding), the call for action cannot be considered fully implemented.</p> <p>The Québec Ombudsman will follow up on the government's commitment to financially support the activities of urban health clinics, subject to the findings of the evaluation report due in 2024. For Call for Action No. 76 to be considered fully implemented, funding will have to be made permanent and increased when needs and impact assessments justify it. In addition, Indigenous authorities must participate in particular in project and impact assessment before projects are renewed and new funding is granted.</p>
Emergency medical transportation		
77★	Take the necessary measures to make emergency medical transportation services by land or by air, depending on the circumstances, available as soon as possible and on an ongoing basis in all communities, despite constraints, in cooperation with Indigenous authorities.	Several investments have been announced in recent years to provide emergency medical transport services to certain communities. According to MSSS, work has begun on helicopter transport, but this call for action is hampered by a number of issues related to implementation time and, in some situations, clinical relevance. Moreover, according to the information collected, MSSS does not have an exhaustive situation report, and emergency medical transport is still not provided in all Indigenous communities. An action plan is scheduled for 2023, to be followed by concrete initiatives. However, at the time this report was being written, action remained insufficient.
Long-term and end-of-life care		
78★	Encourage the signing of agreements between public health and social services institutions and Indigenous authorities to guarantee spaces and a culturally safe service for aging Indigenous persons and their families.	<p>According to MSSS, Call for Action No. 78 concerns institutions and organizations offering services and care directly to the population. These bodies may jointly decide to enter into agreements, subject to obtaining federal funding. In this context, MSSS's role is to support the process of validating and, where appropriate, approving such agreements. It should be noted that MSSS also participates, with ISC, in the work of the joint committee for implementing the <i>Politique-cadre sur les soins continus aux personnes en perte d'autonomie des Premières Nations au Québec</i>.</p> <p>In addition, Measure 11 of the <i>Plan d'action pour l'hébergement de longue durée (2021-2026)</i> calls for 65 clinical support project managers to be deployed in all CISSSs and CIUSSSs, three of which (CISSS Abitibi-Témiscamingue, CISSS de la Côte-Nord and CRSSS de la Baie-James) have an implementation mandate that takes First Nations and Inuit realities and needs into account. There are also plans to create three specialized caregiver coordination positions dedicated to First Nations and Inuit, funded under agreements between MSSS and HSSN institutions, and four specialized anti-maltreatment coordination positions</p>

		<p>dedicated to First Nations and Inuit. If these plans materialize, it could mean increased access to culturally safe services for the aging population and their families. Implementation of the <i>Politique-cadre sur les soins continus aux personnes en perte d'autonomie des Premières Nations au Québec</i> could have similar effects.</p> <p>However, in the Québec Ombudsman's opinion, the purpose of Call for Action No. 78 was also to guarantee Indigenous Elders and their families access to culturally safe places and services. At the time this report was being written, such access was still not assured, and MSSS had not implemented any concrete initiatives to encourage such progress. Consequently, additional efforts will be required if the intent of this call for action is to be realized in a satisfactory manner.</p>
79★	<p>Financially support the establishment of long-term care services in communities covered by an agreement.</p>	<p>In its <i>Plan d'action pour l'hébergement de longue durée (2021-2026)</i>, the Québec government does not specifically foresee developing long-term care services for First Nations and Inuit. Despite this, funding is planned for four Elders' Homes in Nunavik and Cree territory, which is in line with the call for action. The Québec Ombudsman will follow up on how these projects are progressing, especially to ensure that the construction of these homes, scheduled for 2024, indeed occurs and meets the needs of these communities. There are no plans for the Naskapi.</p>
80★	<p>Initiate tripartite negotiations with the federal government and Indigenous authorities to develop long-term care services in communities not covered by an agreement.</p>	<p>MSSS believes that it cannot singly initiate tripartite negotiations aimed at implementing Call for Action No. 80; to do so would contravene Canada's constitutional framework and thwart the will of First Nations and Inuit to self-determination in matters of health and social services. Nonetheless, MSSS affirms its commitment to increased participation in tripartite discussions as part of the work of the Comité des partenaires sur le processus de gouvernance en santé et services sociaux des Premières Nations au Québec. Priorities are determined by FNQLHSSC, and the content of Call for Action No. 80 would not be one of them. MSSS is also part of the joint committee for implementing the <i>Politique-cadre sur les soins continus aux personnes en perte d'autonomie des Premières Nations au Québec</i>, along with ISC.</p> <p>It is also worth mentioning that in the wake of the Viens Commission, the CHSLD in Wendake is operational. This goes to show that initiatives that respond directly to the needs of communities not covered by an agreement are also possible. For the final assessment of this call for action to be deemed positive, MSSS will need to maintain its commitment to using the forums for negotiation and co-construction with Indigenous participants to resolve the issues associated with the sharing of health and social services jurisdictions. At the same time, MSSS interventions aimed at alleviating the problems of access to long-term care for residents of other communities not covered by an agreement will have to be under-taken in collaboration with the Indigenous authorities concerned.</p>

<p><b>81★</b></p>	<p>Make the development of culturally appropriate spaces for Indigenous nations a priority in public health institutions, particularly in regions where there is a substantial Indigenous population.</p>	<p>MSSS funded eight projects to create culturally safe spaces as part of its call for cultural safety projects, fulfilling the intent of the call for action. All institutions, with the collaboration of local Indigenous partners, had the opportunity to submit a project that features such a component. But when all is said and done, because this process is non-prescriptive, not all regions with large Indigenous populations will have culturally adapted spaces. Despite this, it is important to emphasize that all institutions are encouraged to develop projects of this nature, in accordance with the <i>La sécurisation culturelle en santé et en services sociaux : vers des soins et des services culturellement sécurisants pour les Premières Nations et les Inuit</i> guide, the <i>Politique d'hébergement de soins et de services de longue durée 2021-2026</i> and the policy document for seniors' homes.</p> <p>For Call for Action No. 81 to be considered implemented, all Québec regions concerned must have culturally adapted spaces in health and social services facilities.</p>
<p><b>82★</b></p>	<p>Initiate tripartite negotiations with the federal government and Indigenous authorities to establish a formal funding mechanism for returning to the communities at the end of life and for the development of palliative care in the communities.</p>	<p>MSSS believes that it cannot singly initiate tripartite negotiations aimed at implementing Call for Action No. 82; to do so would contravene Canada's constitutional framework and thwart the will of First Nations and Inuit to self-determination in matters of health and social services. Nonetheless, MSSS affirms its commitment to increased participation in tripartite discussions as part of the work of the Comité des partenaires sur le processus de gouvernance en santé et services sociaux des Premières Nations au Québec. Priorities are determined by FNQLHSSC, and the content of Call for Action No. 82 would not be one of them.</p> <p>MSSS also confirmed that on August 1, 2022, it was part of the working group with ISC, SRPNI, and Indigenous organization and community representatives to support implementation of the <i>Politique-cadre sur les soins continus aux personnes en perte d'autonomie des Premières Nations au Québec</i>. FNQLHSSC has tabled an action plan containing several measures and commitments concerning palliative and end-of-life care required by the person's condition and adapted to First Nations communities.</p> <p>For this call for action to progress as intended, issues regarding the funding stemming from the distribution of legislative powers in health and social services will have to be resolved. Implementation of the action plan and other similar palliative and end-of-life care initiatives will also have to meet the needs of First Nations and Inuit, as identified by concerned Indigenous authorities.</p>

### Priority diagnostic service corridors

<p><b>83★</b></p>	<p>Develop priority diagnostic service corridors for Indigenous clients of all ages through tripartite negotiations with the federal government and Indigenous authorities.</p>	<p>MSSS believes that it cannot singly initiate tripartite negotiations aimed at implementing Call for Action No. 83; to do so would contravene Canada's constitutional framework and thwart the will of First Nations and Inuit to self-determination in matters of health and social services. Nonetheless, MSSS affirms its commitment to increased participation in tripartite discussions as part of the work of the Comité des partenaires sur le processus de gouvernance en santé et services sociaux des Premières Nations au Québec. Priorities are determined by FNQLHSSC, and the content of Call for Action No. 83 would not be one of them.</p> <p>MSSS is also part of the joint committee for implementing the <i>Politique-cadre sur les soins continus aux personnes en perte d'autonomie des Premières Nations au Québec</i>, along with ISC. To meet the needs of their client population, the Nunavik Regional Board of Health and Social Services (NRBHSS), CBHSSJB and CLSC Naskapi are empowered to sign agreements with institutions to establish service corridors in the communities they serve.</p> <p>Despite this, the Québec Ombudsman believes that the actions taken do not address the issues of access to priority diagnostic services for Indigenous clients of all ages. Consequently, for the assessment of this call for action to be positive going forward, MSSS will have to maintain its willingness to resolve the issues stemming from the distribution of legislative powers in health and social services in conjunction with Indigenous interlocutors. At the same time, interventions aimed at alleviating problems of access to priority diagnostic services will have to occur, regardless of the place of residence of the people concerned, and in collaboration with the Indigenous authorities concerned.</p>
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### Culturally safe respite services

<p><b>84★</b></p>	<p>Financially support the development of culturally safe, family-centred respite services in communities covered by an agreement and in urban areas.</p>	<p>There is no action or work plan in response to this call for action. MSSS states that Maisons Gilles-Carles (MGC) are open to all client populations and can accommodate First Nations and Inuit people. Interest has reportedly been shown in Maniwaki, in the Outaouais region, for an MGC, but no project has been submitted to develop this service offering. Furthermore, although the Ministère de la Famille is committed to supporting new family-oriented community organizations in Indigenous communities, there is nothing to suggest that this commitment will lead to the development of culturally safe respite care services in communities covered by an agreement and in urban areas.</p>
<p><b>85★</b></p>	<p>Initiate tripartite negotiations with the federal government and Indigenous authorities to develop culturally safe, family-centred respite services in communities not covered by an agreement.</p>	<p>MSSS believes that it cannot singly initiate tripartite negotiations aimed at implementing Call for Action No. 83; to do so would contravene Canada's constitutional framework and thwart the will of First Nations and Inuit to self-determination in matters of health and social services. Nonetheless, MSSS affirms its commitment to participate in tripartite discussions as part of the work of the Comité des partenaires sur le processus de gouvernance en santé et services sociaux des Premières Nations</p>

	<p>au Québec. Priorities are determined by FNQLHSSC, and the content of Call for Action No. 83 would not be part of them.</p> <p>MSSS is also part of the joint committee for implementing the <i>Politique-cadre sur les soins continus aux personnes en perte d'autonomie des Premières Nations au Québec</i>, along with ISC. While this policy affirms the importance of responding to the need for respite for caregivers to people with loss of autonomy, these discussions do not cover all sectors where a need of this nature exists.</p> <p>For this call to action to progress as intended, MSSS will need to maintain its commitment to finding solutions to the issues arising from the distribution of legislative powers in health and social services, in conjunction with Indigenous authorities. At the same time, culturally safe interventions or services designed to meet families' needs for respite care will have to be developed in collaboration with the Indigenous authorities concerned.</p>
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**Sexual assault**

<p><b>86★</b></p>	<p>Initiate tripartite negotiations with the federal government and Indigenous authorities to sustainably fund projects created by Indigenous nations, communities and organizations that seek to identify, reduce, prevent and eliminate sexual assault.</p>	<p>Several projects to recognize, reduce, prevent and eliminate sexual assault have been launched in recent years. For example, the Secrétariat à la condition féminine (SCF) funds projects and agreements from Indigenous partners at various locations across the territory further to a collaborative approach. This tends to respond to the aim of Call for Action No. 86. Departments are also carrying out interesting projects, not all of which are led or undertaken by Indigenous organizations or authorities, but which nonetheless respond to the call for action. For example, financial support from MSSS was granted annually to Quebec Native Women (QNW) for the duration of the 2017-2022 First Nations and Inuit Action Plan. The initiative was aimed at identifying, updating and disseminating existing relevant tools on family and sexual violence, and at developing and offering training on preventing sexual assault.</p> <p>These examples notwithstanding, funding for these projects is based on action plans spanning several years, and we cannot say whether SCF intends to renew them. In addition, the call for action proposed that there be tripartite negotiations so that funding for Indigenous community projects aimed at preventing and eliminating sexual assault can be sustainable. Tripartite health and social services negotiation forums, such as the Comité des partenaires sur le processus de gouvernance en santé et services sociaux des Premières Nations au Québec, are not mobilized to make headway on these issues.</p> <p>This call for action is therefore off to a satisfactory start, as several projects have already been funded. However, it will be important that their funding be renewed when the need for this is demonstrated, and that the projects be undertaken and carried out by Indigenous communities, organizations and nations like those funded by SCF as part of their collaborative approach. In addition, it will be necessary to demonstrate that there are projects throughout the territory, in communities with or without agreements, as well as in urban areas.</p>
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<p><b>87★</b></p> <p>To Indigenous authorities</p>	<p>Raise awareness among the populations of indigenous communities about the nature of sexual assault and promote healthy and respectful sexuality education.</p>	<p>At the time this report was being written, the Québec Ombudsman did not have sufficient information to assess the implementation of this call for action.</p>
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**Women's shelters**

<p><b>88★</b></p>	<p>Fund the development of a network of Indigenous women's shelters in communities covered by an agreement and in urban centres, working with Indigenous authorities.</p>	<p>With regard to communities covered by an agreement, the provincial government funds three shelters in Nunavik and provides recurrent funding to the Eeyou/Eenou and Naskapi health and social services institutions for these issues. In urban areas, two shelters, located in Montréal and Québec City, are also funded under the Programme de soutien aux organismes communautaires. The Québec City shelter also received additional funding to develop another housing project. Moreover, funding has been granted to support the development of four new second-stage housing resources – a type of longer-term housing than emergency housing that provides various psycho-social support services – in Nunavik. Finally, after collaboration with Indigenous partners, it was agreed that a more detailed assessment of the housing needs of Indigenous women who are victims of domestic violence in urban areas was needed. The government has also included a measure for that purpose in its latest 2022-2027 FNI Action Plan. Taken together, these actions demonstrate that the call for action is well underway.</p>
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<p><b>89★</b></p>	<p>Initiate tripartite negotiations with the federal government and Indigenous authorities to develop Indigenous women's shelters in communities not covered by an agreement.</p>	<p>MSSS believes that it cannot singly initiate tripartite negotiations aimed at implementing Call for Action No. 89 for communities not covered by an agreement; to do so would contravene Canada's constitutional framework and thwart the will of First Nations and Inuit to self-determination in matters of health and social services. Nonetheless, MSSS affirms its commitment to participate in tripartite discussions as part of the work of the Comité des partenaires sur le processus de gouvernance en santé et services sociaux des Premières Nations au Québec. Priorities are determined by FNQLHSSC, and the content of Call for Action No. 89 would not be one of them.</p> <p>Moreover, no tripartite negotiations are underway to respond specifically to this call for action, and there are no concrete initiatives for developing shelters for Indigenous women in communities not covered by an agreement.</p>
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**Addiction prevention and treatment**

<p><b>90★</b></p>	<p>Financially support the establishment of culturally safe addiction treatment centres and detoxification centres in urban areas and in communities covered by an agreement.</p>	<p>According to the information collected, substantial funding has been granted to Projets Autochtones du Québec, in particular to offer an alcohol consumption management program. This project is just one of HSSN's MSSS-funded practice development initiatives to culturally adapt addiction intervention programs. In addition, an amount is set aside for Nunavik and Terres-Cries-de-la-Baie-James to implement culturally safe services. Finally, the government's financial contribution to the construction of the new Isuarsivik Centre in Kuujuaq is substantial and worthwhile. This centre offers addiction treatment services adapted to Inuit culture, which is at least partly in line with the call for action.</p>
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		<p>However, the information available does not enable us to say definitively that earmarked amounts and the current supply of culturally safe addiction treatment and detoxification services are sufficient to make up for the lack of services identified by the Viens Commission. For the final assessment of the call for action to be positive, it will be necessary to demonstrate that the funding and services on offer are sufficient given the extent of First Nations and Inuit needs in urban communities and communities covered by an agreement, for the entire territory concerned.</p>
<p><b>91★</b></p>	<p>Initiate tripartite negotiations with the federal government and Indigenous authorities to increase services for addiction prevention and treatment in Indigenous communities not covered by an agreement.</p>	<p>Canada-Québec agreements signed under the <i>Substance Use and Addictions Program</i> make it possible for addiction programs specifically adapted to the realities of First Nations and Inuit to be developed. "Sage Usage," an early intervention program, is one example of a program funded under this framework.</p> <p>That said, MSSS believes that it cannot singly initiate tripartite negotiations aimed at implementing Call for Action No. 91 for communities not covered by an agreement; to do so would contravene Canada's constitutional framework and thwart the will of First Nations and Inuit to self-determination in matters of health and social services. Nonetheless, MSSS affirms its commitment to participate in tripartite discussions as part of the work of the Comité des partenaires sur le processus de gouvernance en santé et services sociaux des Premières Nations au Québec. Priorities are determined by FNQLHSSC, and the content of Call for Action No. 91 would not be one of them.</p> <p>For a final assessment of the call for action to be positive, MSSS will have to maintain its willingness to find solutions to the issues stemming from the distribution of legislative powers in health and social services in conjunction with Indigenous interlocutors. At the same time, there will have to be interventions or services to promote access to addiction prevention and treatment services, in collaboration with the Indigenous authorities concerned.</p>
<p><b>92★</b></p>	<p>Working with the federal government and Indigenous authorities, draw up less stringent admission rules at addiction treatment centres for off-reserve First Nations members and Inuit.</p>	<p>According to the information received, the <i>Regulation respecting the certification of community or private resources offering addiction lodging</i> provides a framework for addiction treatment centre practices. Consequently, relaxing the rules would require a regulatory review. If necessary, consultations could be undertaken to adapt the rules to First Nations and Inuit realities.</p> <p>At the time this report was being written, no progress had been made on this front. However, work and discussions have been underway for several years with ISC, FNQLHSSC, addiction treatment centre representatives and the Ministère du Travail. However, these discussions tend to focus on the special benefit for living expenses for Indigenous people in the justice system, which does not respond to Call for Action No. 92.</p>



## Suicide prevention and mental health

<p>93★</p>	<p>Financially support the development of services for suicide prevention and mental health in communities covered by an agreement and in urban centres, in cooperation with Indigenous authorities.</p>	<p>NRBHSS and CBHSSJB are responsible for planning and developing mental health services in communities covered by an agreement. For its part, MSSS is responsible for funding, but it has not been possible to determine whether allocated budgets are deemed sufficient to meet the needs in these territories. The <i>Plan d'action intergouvernemental en santé mentale 2022-2026</i> (PAISM 2022-2026) also provides for an Aire ouverte service offering in the Eeyou/Eenou and Inuit territories (for a total budget of \$1.8 million), and funding for two community-based housing organizations for Inuit in communities covered by an agreement (\$82,000).</p> <p>In urban settings, both the <i>Stratégie nationale de prévention du suicide 2022-2026</i> and PAISM 2022-2026 serve as frameworks for developing a slate of services adapted to First Nations and Inuit needs. According to information obtained from MSSS, suicide prevention initiatives for First Nations and Inuit are currently being developed with the relevant parties. Consequently, funding for these initiatives had not been announced publicly at the time this report was being written. In the area of mental health, various budgets have been earmarked to improve access to services and consolidate crisis services.</p> <p>The Québec Ombudsman notes that the interventions implemented are in line with the wording of Call for Action No. 93. To be fully implemented, they must generate tangible and lasting improvements in accessing the new suicide prevention and mental health services for the communities concerned.</p>
<p>94★</p>	<p>Draw up a protocol for crisis management in communities covered by an agreement that involves both the public health network and the participation of appropriate Indigenous authorities.</p>	<p>Consultations with First Nations and Inuit partners took place during the various stages of updating suicide prevention best practice guides. Despite a slowdown in the work scheduled, the update of the guides was completed in 2023. All facilities, including those in territories covered by an agreement, must also update their general social services standards, including 24/7 crisis intervention.</p> <p>Basic training in suicide prevention best practices, homicide risk assessment and management, and 24/7 crisis intervention would also be available to facilities. These developments, despite the delays, show that crisis intervention coordination could make headway in communities covered by an agreement.</p> <p>For this call for action to progress as intended, an analysis of the measures used will have to show that, as the authorities concerned see it, the response to the needs expressed is satisfactory.</p>
<p>95★</p>	<p>Initiate tripartite negotiations with the federal government and Indigenous authorities to increase services for suicide prevention and mental health in Indigenous communities not covered by an agreement.</p>	<p>MSSS believes that it cannot singly initiate tripartite negotiations aimed at implementing Call for Action No. 95 for communities not covered by an agreement; to do so would contravene Canada's constitutional framework and thwart the will of First Nations and Inuit to self-determination in matters of health and social services. Nonetheless, MSSS affirms its commitment to participate in tripartite discussions as part of the work of the <i>Comité des partenaires sur le processus de gouvernance en</i></p>

		<p>santé et services sociaux des Premières Nations au Québec. Priorities are determined by FNQLHSSC, and the content of Call for Action No. 95 would not be one of them.</p> <p>Be that as it may, the Direction des Services de santé mentale, in collaboration with FNQLHSSC, has begun work to set up collaboration agreements between health centres in communities not covered by an agreement and HSSN institutions in the winter of 2023. Progress to date includes the creation of a follow-up committee made up of representatives of the clinical departments involved in Measure 5.1 of the FNI Action Plan (public health department for suicide prevention, general social services department, addiction and homelessness services department, and mental health services department) and of various Indigenous partners (FNQLHSSC, Conseil de la Nation Atikamekw, and the First Nations and Inuit Suicide Prevention Association of Québec and Labrador). The purpose will be to establish service corridors and ensure their sustainability, as well as liaison, coordination and communication mechanisms between HSSN and Indigenous communities not covered by an agreement. The budget for this measure is \$5 million over five years (\$1 million per year).</p> <p>In short, despite the implementation delays associated with the division of constitutional powers, conditions seem to be in place for this call for action, both in its purpose and in its wording, to become a reality in the longer term. For this to be the case, the evaluation of the measures used will need to show that suicide prevention and mental health needs are being met to the satisfaction of the authorities concerned, and that funding to enhance service provision remains commensurate with demonstrated needs.</p>
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<b>Services in urban areas</b>		
96	<p>Encourage institutions in the health and social services network to set up services inspired by the Clinique Minowé model in urban settings, working with the Indigenous authorities and organizations in their territory.</p>	<p>HSSN has invested considerable amounts to encourage HSSN institutions to set up services inspired by the Minowé Clinic (now called Mino Pimatis8in) model in urban areas. In fact, a normative framework to improve access to front-line services has been established, with funding over four years and an obligation for the responsible institutions to collaborate with Indigenous partners. Funding has also been set aside for RCAAQ to support Indigenous friendship centres in planning, implementing, deploying, monitoring and evaluating front-line services in nine urban regions. Since the Viens Commission report was tabled, two such clinics have been set up: the Acokan clinic in La Tuque and the Mirerimowin clinic in Joliette. Evaluation of Mino Pimatis8in clinic roll-out will be done externally, and the final report is scheduled for tabling in autumn 2024. Although, overall, this call for action is considered to have been fulfilled, the fact remains that funding for these clinics is not sustainable. The Québec Ombudsman will continue to monitor development of this service offering in light of the conclusions of this evaluation.</p>

97	Provide recurrent, sustainable funding for services that draw on the Clinique Minowé model and are developed in urban settings for Indigenous peoples.	Funding of \$27.4 million has been granted by MSSS for the years 2021 to 2025 to support development and maintenance of front-line services for Indigenous people in nine urban settings, based on the Clinique Mino Pimatis8in (formerly known as Minowé) model. This funding fulfills the intent of the call for action. However, at the time this report was being written, given current administrative framework and practices (which require public administrations to wait a few years before confirming a program's continuity and long-term funding), Call for Action No. 97 could not be considered completed. The Québec Ombudsman will follow up on the government's commitment to financially support the activities of urban First Nations and Inuit health clinics throughout the territory concerned, subject to the conclusions of the evaluation report due in 2024.
98	Issue a directive to urban health and social service institutions to establish clear service corridors and communication protocols with Indigenous authorities in the communities.	<p>MSSS believes that implementing this call for action raises issues related to the sharing of responsibilities with institutions. The guide <i>La sécurisation culturelle en santé et en services sociaux: vers des soins et des services culturellement sécurisants pour les Premières Nations et les Inuit</i> mentions that collaborative agreements can be important in ensuring care and service continuity. As mentioned earlier, this guide is intended to encourage the adoption of good practices but is neither binding nor prescriptive. Call for Action No. 98 called for a directive to be issued to facilities to reduce regional disparities regarding service corridors and clear communication protocols between facilities and communities. The Guide does not ensure that this objective is met.</p> <p>Be that as it may, the Québec Ombudsman welcomes the news that a directive has been issued to facilities to put an end to reporting at birth (<i>La Presse</i>, April 14, 2023). This directive shows that it is possible for MSSS to provide guidance to institutions when changes are needed. For the final assessment of this call for action to be positive, the proposed initiatives will have to ensure an increase in service corridors and communication protocols in health regions where improvements in this area are overdue.</p>
Homelessness		
99	Provide sustainable funding for services to homeless Indigenous clientele in urban areas.	<p>In Action 10 of its <i>Plan d'action interministériel en itinérance 2021-2026</i> (PAII 2021-2026), the Québec government explains that to organize its response to homelessness among First Nations and Inuit, "the proposed means for combatting homelessness in these communities are collated and integrated within the Plan d'action gouvernemental pour le développement social et culturel des Premières Nations et des Inuits 2017-2022 (PAGDSCPNI)." [our translation] The investment provided for in this plan corresponds to a budget of \$13,975 million over five years. According to MSSS, measures 6.1 and 6.2 of PAII 2021-2026, which aim to fund emergency housing resources, are also available to offer specific services to Indigenous client populations. However, the information obtained does not shed light on the measures' real benefits for the latter.</p> <p>In concrete terms, Measure 10.1 of PAII 2021-2026 has, among other things, funded initiatives in line with the <i>Plan concerté</i></p>

		<p><i>montréalais en itinérance 2021-2026</i>. These funds are aimed at consolidating emergency and transitional housing services to meet growing and diverse needs and at developing a 24/7 continuum of holistic health services for Indigenous communities. A health and emergency housing centre for Inuit (40 to 60 places) is one of the projects that enables this will to consolidate the slate of services to be implemented. In addition, as part of the Rapid Housing Initiative (ICRL-SCHL) carried by Projets Autochtones du Québec, MSSS is investing \$1 million to support people housed in new Rent Supplement Program units. Nearly half of the 18 new units will be reserved for a pilot residential program with community-based alcohol management for homeless people with chronic and severe alcohol dependency.</p> <p>It should be noted that initiatives outside Montréal are also supported. These include resources financed by HSSN institutions in Val-d'Or, Côte-Nord and Chibougamau, and set up by MSP, as well as six ÉMIPICs. These initiatives facilitate access to resources for vulnerable client populations, including the homeless. These teams also enhance collaboration between public service sectors in developing useful new resources, as seen in Roberval and Val-d'Or. Only one of these services is funded on a permanent basis; the others are being evaluated.</p> <p>These initiatives are in line with the intent of Call for Action No. 99. However, at the time this report was being written, due to current administrative frameworks and practices (which require public administrations to wait a few years before confirming a project's continuity and long-term funding), the call for action could not be considered fully realized. For it to be fully implemented, funding will have to be renewed and services made permanent, once the needs and benefits of the entire area covered by the call for action have been assessed. In addition, Indigenous authorities must participate in project and impact assessment before projects are renewed and new funding is granted.</p>
100	Fund the creation of a shelter specifically reserved for homeless Inuit clientele in Montréal.	<p>Following consultations held prior to developing the <i>Plan d'action interministériel en itinérance 2021-2026</i>, MSSS decided that funding for creating an Inuit-only shelter would be granted to Projets Autochtones du Québec. This decision is said to stem from the fact that no Inuit community organization has yet been created in Montréal to develop such a project. The Québec Ombudsman has been unable to learn more about the location of the future housing centre. It is therefore impossible to determine whether the chosen location will take into account the cultural specificities of Inuit and resolve the safety and cohabitation issues raised in the Ombudsman de Montréal's report (2022).</p> <p>The call for action is therefore considered to be underway. However, for the final assessment of the initiatives to be positive, the future housing centre will have to take Inuit needs into account, and their representatives will have to be part of decision-making at every stage of the project's implementation.</p>

Federal Non-Insured Health Benefits program		
101	Initiate discussions with the federal government to dovetail the provincial prescription drug insurance plan with the Non-Insured Health Benefits program in order to offer the most comprehensive, equitable coverage for members of Indigenous communities.	<p>The Viens Commission report showed that in terms of access to medication, significant inequities exist, particularly between regions. For the most part, these inequities are due to the fact that many healthcare professionals working in Québec, like their Canadian counterparts, are unfamiliar with the list of drugs and services covered by the Non-Insured Health Benefits (NIHB) program for First Nations and Inuit, and with the related accessibility processes. As a result, individuals can face significant obstacles in obtaining their medications, sometimes putting them at risk.</p> <p>For its part, MSSS considers that the general drug insurance plan is very extensive, that it is up to NIHB to promote its plan and ensure its full management, and that it is the Pan-Canadian Pharmaceutical Alliance's responsibility to ensure better harmonization of the two drug insurance plans across Canada. MSSS also states that it has brought the need for information on NIHB coverage to the attention of the Ordre des pharmaciens and healthcare professional associations, a need that has not been corroborated by the principal parties concerned. In short, it appears that the issues of equity of access to drugs and health care raised by the Viens Commission are at the same stage they were when the report was published.</p>
102	Encourage the professional orders involved (doctors and pharmacists) to give their members training about the federal Non-Insured Health Benefits program.	To date, no such initiative has been undertaken by the Office des professions du Québec or MSSS. The latter has consulted its pharmaceutical affairs committee, which has stated that it has no specific training needs regarding NIHB, despite the inequities demonstrated by the Viens Commission. Furthermore, although MSSS affirms that ISC is responsible for communicating the parameters of its program, it recognizes that it could be its responsibility to make professional orders aware of the issues raised by the Viens Commission and to encourage reflection. Awareness-raising initiatives of this kind could positively change the way this call for action is assessed.
Non-urgent medical transportation		
103	Initiate a strategic planning session on non-urgent medical transportation that includes the federal government, health and social services network institutions and Indigenous authorities.	There are no ongoing discussions with federal or Indigenous authorities regarding non-emergency medical transport. MSSS wishes to integrate these issues into its next action plan stemming from the <i>Politique gouvernementale sur le système préhospitalier d'urgence</i> . This plan was scheduled for spring 2023, and consultations were to be held with Indigenous communities. The Québec Ombudsman intends to follow up on the measures proposed in this action plan, but at the time this report was being written, no concrete action had been taken regarding Call for Action No. 103.
Jordan's Principle		
104	Initiate discussions with the federal government to extend the Jordan Principle to adults.	ISC is responsible for Jordan's Principle's Federal Program. Considering that the mobilization of partners is a fundamental component in implementing Jordan's Principle, ISC has set up a regional committee of coordinators in Québec (now called "Table de concertation régionale sur le principe de Jordan au Québec"). Its members are committed to working together to improve

		<p>access to care, based on the areas of expertise of the organizations they represent. MSSS is a member of the committee. One of the committee's aims is to discuss First Nations children's unmet needs and to propose solutions for developing an autonomous, permanent and systemic approach. Table meetings have continued into 2023. The possibility of extending Jordan's Principle to adults has, to date, not been one of the topics discussed by this committee. As a result, no relevant action appears to have been taken in response to Call for Action No. 104.</p>
105	<p>Working with the federal government, develop an overall approach for applying the Jordan Principle, coupled with budget forecasts for all First Nations and Inuit.</p>	<p>The scant information available on the Table de concertation régionale sur le principe de Jordan au Québec suggests that the partners are discussing its application. However, it is unclear whether these same discussions are aimed at developing a global approach to implementing the principle in the Québec context, or whether they concern budget forecasts for First Nations and Inuit as a whole. At present, no relevant action appears to have been taken in response to the call to action.</p>

#### Recruitment and working conditions

106	<p>Rapidly implement the recommendations of the <i>Comité sur l'application du PL-21</i> in First Nations communities and Inuit villages.</p>	<p>In 2016, six years after the <i>Act to amend the Professional Code and other legislative provisions in the field of mental health and human relations</i> (commonly referred to as "Bill 21") was adopted, the Committee on the application of "Bill 21" within First Nations communities and Inuit villages produced a report that included nine recommendations to ensure that the implementation of this new law takes specific Indigenous realities into account. To follow up on these recommendations, a steering committee, coordinated by SRPNI, was formed with the organizations that participated in producing the report. The work, funded under Measure 3.9 of the 2022-2027 FNI Action Plan, focus on three components that are in line with the issues raised by the Committee: 1) developing a process for recognizing prior learning and skills; 2) developing training; 3) developing a process for licensing three of the activities reserved under Bill 21. Working groups were formed and resources were hired by the various partners to carry out the work.</p> <p>It should be noted that the commitment to implement the report's recommendations had been made in the previous 2017-2021 FNI Action Plan. In MSSS's opinion, the pandemic, the complexity of the issues and the sheer number of people involved have prevented the parties from achieving this. Among Indigenous representatives, there is also a perceived lack of ministerial commitment to resolving administrative issues for the benefit of First Nations and Inuit.</p> <p>A number of recent government decisions, particularly those concerning adoption of the <i>Act respecting French, the official and common language of Québec</i>, could also complicate the implementation of these recommendations. The new requirements contained in the Act place additional constraints on achieving progress, which could lead to further delays in implementing the committee's recommendations. Yet, the wording of Call for Action No. 106 insists on the need to imple-</p>
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		<p>ment the recommendations "as quickly as possible." Thus, although the structure needed to respond to this call for action exists and is active, the actual progress of the work in relation to the time that has elapsed and the weight of the problems caused by Bill 21 for First Nations and Inuit mean that this call for action is considered to be underway but in an unsatisfactory manner.</p> <p>It should be noted that Bill 32, <i>Act to establish the cultural safety approach within the health and social services network</i>, was tabled on June 9, 2023. It proposes amendments to the <i>Professional Code</i> concerning the performance of three types of reserved acts. The Québec Ombudsman will be closely monitoring developments on this front.</p>
<p><b>107★</b></p>	<p>Follow up as quickly as possible on proposals to improve working conditions from the Nunavik Regional Board of Health and Social Services.</p>	<p>A committee made up of NRBHSS, MSSS and the Comité patronal de négociation du secteur de la santé et des services sociaux (CPNSSS) on working conditions for the Inuit workforce evaluates issues related to Call for Action No.107. This committee meets four times a year. One of the issues raised by NRBHSS was the need to modify job categories to allow greater flexibility in hiring. Since the Viens Commission report was tabled, MSSS has taken steps to propose job titles and conditions more appropriate to the reality of Nunavik by replacing the title "service navigator." CPNSSS is currently awaiting feedback on this from NRBHSS.</p> <p>However, although job nomenclature is one of the major issues raised by NRBHSS, it is the jobs in the fields of mental health and human relations that have been most affected by the changes stemming from Bill 21. In particular, the requirement by which workers authorized to carry out reserved activities in social work must be fluent in French is considered pointless in Nunavik and hinders the hiring of qualified Inuit staff. No progress has been made in this area.</p> <p>The other major issue from the point of view of Inuit representatives is that of the levelling of working conditions for the Inuit workforce in relation to those of staff recruited from the South, particularly regarding plane tickets and the coverage of housing costs. According to Inuit representatives, these matters affect labour relations and fuel the impression that MSSS tends to discriminate against Inuit workers, but HSSN does not fully consider the importance of these questions.</p> <p>In short, since the wording of the call for action and the information obtained from Indigenous authorities demonstrate a need to respond quickly to these issues, particularly given the magnitude of the economic and social effects they generate in Nunavik, this call for action is considered to be underway, albeit in an unsatisfactory manner. It should be noted that Bill 32, <i>Act to establish the cultural safety approach within the health and social services network</i>, was tabled on June 9, 2023. This introduces a proposed amendment to the <i>Professional Code</i> concerning the performance of three types of reserved acts. The Québec Ombudsman will be closely monitoring developments on this front.</p>

No.	Call for action wording	Appreciation of the Québec Ombudsman
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## YOUTH PROTECTION SERVICES

### Maximum placement periods

<b>108</b>	Amend the <i>Youth Protection Act</i> to exempt Indigenous children from the application of maximum periods for alternative living environments as stipulated in sections 53.0.1 and 91.1.	<p>In response to the call for action, sections 131.12 and 131.14 were added to the YPA when the <i>Act to amend the Youth Protection Act and other legislative provisions</i> was passed. These sections provide an exception to the maximum placement periods for Indigenous children set out in sections 53.0.1 and 91.1, but with a proviso: formation of a family council. MSSS also refers to section 91.1 of the YPA in its implementation of Call for Action No. 108.</p> <p>The Viens Commission found that the theory of attachment, on which the concept of maximum time limits is based, is not in tune with Indigenous realities. Consequently, it is inadequate to meet the interests of Indigenous children. It was this very observation that justified the request for an unconditional exemption for Indigenous children from the application of maximum placement times.</p> <p>However, the legislator did not heed this recommendation, nor the requests of Indigenous representatives to the same effect and chose instead to insert an exception into YPA allowing, under certain conditions, the maximum placement periods to be exceeded.</p> <p>The amendment to the YPA is in line with the call for action, but is considered unsatisfactory, as it does not respect the strict wording of the call for action, nor the intention of the Viens Commission in its entirety. At the time this report was being written, section 131.12 of the YPA, although assented to, had not yet come into force, and will do so by regulation. There is no indication as to when this change will take effect.</p>
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### Tradition-based Customary care

<b>109</b>	Amend the <i>Youth Protection Act</i> to include a provision on care that is consistent with Indigenous traditions, drawing on <i>Ontario's Child, Youth and Family Services Act</i> .	A more in-depth legal analysis is required to assess whether this call for action has been implemented.
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### Family Council

<b>110</b>	Enshrine in the <i>Youth Protection Act</i> a requirement that a family council be set up as soon as an Indigenous child is involved in a youth protection intervention, whether or not the child is at risk of being placed.	The adoption and assent of the <i>Act to amend the Youth Protection Act and other legislative provisions</i> , which inserted the notion of family council into sections 131.9 through 131.13, is an important step forward. With this legislative amendment, the government enshrined in YPA the terms and conditions surrounding the practice of family councils. However, it has not retained the idea of setting up a family council as soon as a child is affected by the DYP's intervention, as recommended in Call for Action No. 110. Indigenous representatives and MSSS have pointed out that this requirement is unrealistic, given the urgent nature of certain situations, including those requiring immediate protective measures.
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The addition of section 131.1 d) to YPA promotes priority intervention by health and social service providers in the community to prevent Indigenous children from being taken into care by DYP. This section will therefore make up for this shortcoming in certain situations and ensure information sharing, when duly used by youth protection directorate professionals. It should be noted that the wording of section 131.1 d) asks professionals to promote certain interventions as part of their work, but there is no obligation, either in terms of initiatives or results.

As for implementing these new sections of the law, MSSS confirms that work on the implementation of the legislative amendments made by the *Act to amend the Youth Protection Act and other legislative provisions* concerning Indigenous children, youth and families began on March 13, 2023, in close collaboration with First Nations and Inuit representatives. Furthermore, MSSS affirms that the use of family councils was brought to the forefront in collaboration with First Nations and Inuit members when the reference Framework on Life Projects for Indigenous Children was being developed. According to MSSS, the work carried out will be useful in providing a framework for the use of family councils that is flexible enough to take into account the different realities of First Nations and Inuit. That said, the Québec Ombudsman has no indication of when the reference framework will be made public, what it will contain or how it will be integrated into professional practice.

MSSS also mentions the Tikinagan training course, created and distributed by UQAT, as part of MSSS's cultural safety training plan for the youth protection sector in an Indigenous context. This training addresses the issue of family councils. Although strongly recommended by MSSS, Tikinagan training is not mandatory for all HSSN personnel working in youth protection, nor is it part of an ongoing training plan with objectives and indicators as to its impact.

In assessing this call for action, the Québec Ombudsman will have to ensure that the new sections of the law come into force, that the reference framework is made public and integrated into the practice of professionals, that the Tikinagan training program achieves the objectives set out in Calls for Action Nos. 25 and 26, and that these initiatives are implemented in close collaboration with Indigenous representatives at every stage. It will also be important to clarify certain elements essential to the proper functioning of the family council, such as the human and financial resources that will be made available to the communities so that they are in a position to take on this new responsibility. It will be necessary to determine how collaboration between Indigenous organizations and HSSN institutions will be updated in this context.

In short, although a number of initiatives are underway, and legislative changes are planned for YPA, the extent of the road still to be travelled before the goals of the Viens Commission are met is such that implementation is deemed unsatisfactory at present.

Information management and directive-sharing		
111	Provide professionals working in Indigenous communities with access to provincial information management systems (such as the PIJ).	MSSS provides support for deploying certain solutions concerning access to information management systems for professionals working with Indigenous communities. However, no structuring plan has been created since the release of the Viens Commission report to ensure this access for all the professionals concerned. Access to information management systems is variable, as it is based on agreements between institutions (CIUSSSs and CISSSs) and communities, and the management of these agreements is at DYP's discretion. This call for action is considered to be underway, as initiatives are already being undertaken by MSSS. However, this initiative is considered unsatisfactory, as the absence of an overall work plan for making the various systems accessible in all communities makes it impossible to establish an accurate picture of progress.
112	Share the new directives and standards that apply in youth protection with all professionals responsible for such cases in Indigenous communities in real time.	<p>The creation of the position of National Director of Youth Protection within MSSS has improved communication and information sharing via the Table des directeurs de la protection de la jeunesse (meetings every three weeks) and FNQLHSSC 's Regional Round Table (meetings twice a year) on child services. Each institution is responsible for information sharing between Indigenous organizations and provincial partners, as was the case when the Viens Commission report was released.</p> <p>Communication between MSSS, certain Indigenous representatives and DYPs facilitates the transmission of information to Indigenous communities. However, the methods of collaboration between Indigenous communities and the network's institutions are developed according to the will of the latter, and no directives have been issued to DYPs to provide a framework for practices in this regard. The absence of any concrete ways of responding to this call for action means that we cannot confirm that all professionals working in Indigenous communities will receive the new directives and applicable standards in good time. This call for action is therefore deemed to have begun, but in an unsatisfactory manner.</p>
The Indigenous child's interest		
113	Make youth protection evaluations and decisions in a way that takes the historical, social and cultural factors related to First Nations and Inuit into account.	Legislative amendments introduced by the <i>Act to amend the Youth Protection Act and other legislative provisions</i> are designed to adapt YPA provisions to the realities of Indigenous children, taking into account the historical, social and cultural factors specific to them (sections 131.4 and 131.15). On March 13, 2023, MSSS began working with Indigenous representatives to establish structures for implementing the legislative amendments of the new Act. In addition, MSSS plans to begin work on improving and harmonizing youth protection reports in the Indigenous context. As a result, work on Calls for Action Nos. 115 and 116 will contribute to implementation of Call for Action No. 113. The Tikinagan training program also addresses these issues. This training was created and distributed by UQAT and is part of MSSS's cultural safety training plan for the youth protection sector in the Indigenous context. In addition, a

		<p>reference framework on life projects that addresses these aspects was produced in collaboration with Indigenous partners.</p> <p>These initiatives are a step in the right direction, but are insufficient, as it is impossible to measure their real impact on the ground with the information gathered at present. Indeed, the structures for implementing the amendments to YPA, as well as the practice support tools mentioned, do not yet exist. Tikinagan training, although strongly recommended by MSSS, is not mandatory for all staff, nor is it part of an ongoing training plan with objectives and impact indicators. For its part, the reference framework is not yet public, and the Québec Ombudsman has no indication of when it will be. Nor does it know what it will contain or how it will be integrated into professional practice. In concrete terms, to date, there is no suitable evaluation method for practitioners to report that they have taken into account the distinct conceptions and particularities of Indigenous children and families in their practice. It should be noted that no concrete initiative is underway to incorporate the provisions of the <i>Act respecting First Nations, Inuit and Métis children, youth and families</i> (commonly referred to as "federal Bill C-92") into the practice of professionals, even though the minimum standards of this law are in force and deal with these aspects. This call for action is therefore considered to have begun, but in an unsatisfactory manner.</p>
<p><b>114</b></p>	<p>Provide judges presiding in the Court of Québec, Youth Division, with reports similar to the Gladue reports used in the criminal justice system for cases involving Indigenous children.</p>	<p>Legislative amendments to section 1 of chapter V.1 of YPA by the <i>Act to amend the Youth Protection Act and other legislative provisions</i> include additional factors to be considered over and above those already set out in section 3 of YPA in determining the best interests of Indigenous children. Moreover, the addition of section 131.15, which was developed with the First Nations and Inuit working group during its activities surrounding Bill 15 (Dec. 2021), makes the following change: "A person responsible for the youth protection services of an Indigenous community or, in the absence of such a person, the person who assumes a role in matters of child and family services within an Indigenous community or the representative designated by such a community may, in the course of a proceeding concerning an Indigenous child belonging to that community, testify or submit observations, including in writing, before the tribunal, and may, for those purposes, be assisted by an advocate." MSSS also maintains that further analysis and work with Indigenous representatives will be required to determine whether the legislative amendments and their application will fully respond to Call for Action No. 114. Further-more, following the recommendations of the Laurent Commission, MSSS indicates that a project on youth protection reports will be launched, including a component on Gladue-like reports.</p> <p>These initiatives are in line with Call for Action No. 114, but they are only a partial response, as these legislative changes are not accompanied by additional structures and tools to achieve the same goals as a Gladue report. Also, no funding, training or obligation to produce results is provided for this purpose. These</p>

		<p>are therefore interesting legislative initiatives, but unsatisfactory for achieving the purpose of the call for action as worded.</p> <p>For its part, MJQ affirms that discussions are underway with MSSS concerning Gladue reports. To date, no Indigenous partners have been part of these discussions. The Québec Ombudsman will be keeping a close eye on this future work.</p>
<b>Evaluation tools</b>		
<b>115★</b>	<p>Validate the evaluation tools used in youth protection with Indigenous clinical experts.</p>	<p>At MSSS's request, a committee, in partnership with First Nations and Inuit representatives, was set up to implement Call for Action No. 115. Funding of \$3 million was allocated under Measure 3.7 of the 2022–2027 FNI Action Plan to implement this call for action. Experts from the various nations sit on the committee, which is coordinated by FNQLHSSC. The call for action is therefore well underway. Everything seems to be in place for it to be carried out, and work is underway. However, the assessment tools have not yet been validated.</p>
<b>116★</b>	<p>Overhaul the clinical evaluation tools used in youth protection whose effects are deemed to be discriminatory toward Indigenous peoples, in cooperation with experts from the First Nations and Inuit peoples.</p>	<p>A committee, in partnership with First Nations and Inuit representatives, was set up at MSSS's request to implement Call for Action No. 116. Funding of \$3 million has been allocated under Measure 3.7 of the 2022–2027 FNI Action Plan to implement this call for action. Experts from the various nations sit on the committee, which is coordinated by FNQLHSSC. The call for action is therefore well underway. Everything seems to be in place for it to be carried out, and work is underway. However, the redesign of clinical assessment tools has not yet been completed.</p>
<b>117★</b>	<p>Amend the <i>Act respecting health services and social services</i> to include a provision requiring workers to record objectives and methods for preserving cultural identity in the intervention plans and individualized service plans of all children who identify as First Nation or Inuit and are placed outside their family environments.</p>	<p>Section 104 of LSSSS has been amended by the <i>Act to amend the Youth Protection Act and other legislative provisions</i>, and this responds to the wording of this call for action. Indeed, this amendment now stipulates that intervention plans and individualized service plans must mention the objectives and means aimed at fostering the cultural continuity of Indigenous children entrusted to a substitute living environment under YPA. This call for action is therefore deemed to have been implemented.</p>
<b>Intensive support services for parents</b>		
<b>118</b>	<p>Fund the development of intensive support services in urban environments and Indigenous communities covered by an agreement for parents of Indigenous children who have been placed in foster care.</p>	<p>No initiative has been undertaken by the government to take into account the distinct needs of nations covered by an agreement and of urban families. No additional funding has been allocated specifically to respond to this call for action.</p>

<p><b>119</b></p>	<p>Initiate tripartite negotiations with the federal government and Indigenous authorities to finance the development of intensive support services in communities not covered by an agreement for parents of Indigenous children who have been placed in care.</p>	<p>MSSS is of the opinion that it cannot assume sole responsibility for initiating tripartite negotiations aimed at implementing Call for Action No. 119; to do so would contravene the Canadian constitutional framework and thwart the will of First Nations and Inuit to self-determination in matters of health and social services. In this context, MSSS is reaffirming its commitment to increased participation in tripartite discussions as part of the work of the Comité des partenaires sur le processus de gouvernance en santé et services sociaux des Premières Nations au Québec. Priorities are determined by FNQLHSSC, and the content of Call for Action No. 119 would not be one of them.</p> <p>MSSS points out that, given the Supreme Court challenge to "federal Bill C-92," now is not the time to continue tripartite youth protection negotiations. The ruling will shed important light on the matter that will need to be taken into account during future discussions within the partners' committee.</p>
<p>Placement</p>		
<p><b>120</b></p>	<p>Working with Indigenous authorities, draw up a placement policy specific to members of First Nations and Inuit that provides that Indigenous children be first placed with their immediate or extended families and, if that is not possible, with members of their communities or nations.</p>	<p>The government responded satisfactorily to this call for action by passing the <i>Act to amend the Youth Protection Act and other legislative provisions</i>. Section 131.5 of the Act gives priority to the placement of Indigenous children. However, the section does not provide a concrete framework for implementing the order of priority, as the legislator has not indicated that DYP is required to demonstrate that real and intensive efforts have been made to ensure that the child continues to reside with his or her parents or with another family member, as indicated in the final report of the Viens Commission. This is also a point made in various briefs submitted during the special consultations on Bill 15 (Dec. 2021). Furthermore, "federal Bill C-92" dictates minimum standards along the same lines as CERP and calls for proof that reasonable efforts have been made to have the child remain with a parent – mother or father – or with another adult family member (15.1). This call for action is therefore not considered to have been fully implemented: although some government initiatives are along the same lines, they do not fully meet the desired objective.</p>
<p><b>121</b></p>	<p>Make sure that a cultural intervention plan is produced and implemented whenever an Indigenous child must be placed in a non-Indigenous alternative environment.</p>	<p>To explain the implementation of this call for action, MSSS refers to the amendment to section 104 of LSSSS, which states that the intervention plan and the individualized service plan must mention the objectives and means to promote the cultural continuity of Indigenous children entrusted to a substitute living environment under the YPA. However, the Viens Commission refers to a separate document that it calls a "cultural intervention plan" to be developed for Call for Action No. 121. The intervention plan and the individualized service plan are agreements between caregivers, parents and young people (aged 14 and over) that address various topics, including the child's cultural continuity. For its part, the cultural intervention plan would give responsibilities to different people, including foster families, with the specific aim of preserving the child's culture. This plan would include detailed information such as the type of activity, the frequency required, the funding to be provided</p>

		<p>for the plan to be carried out, as well as the responsibilities of each of the parties concerned.</p> <p>The cultural intervention plan is one of the tools discussed in the Tikinagan training course on cultural safety. This training was designed by UQAT and is given to all staff working in HSSN's Youth in difficulty services. However, there are no guidelines for the systematic use of this tool. What's more, although strongly recommended by MSSS, Tikinagan training is not mandatory for all staff working in youth protection, nor is it part of an ongoing training plan with objectives and impact indicators.</p> <p>For the implementation of this call for action to be deemed satisfactory, MSSS will need to clarify the differences between the cultural intervention plan, the intervention plan and the individualized service plan, in order to avoid confusion. In addition, Tikinagan training will have to meet the objectives of Calls for Action Nos. 25 and 26, and a directive will have to be issued so that caregivers use the cultural intervention plan systematically when an Indigenous child has to be placed in a non-Indigenous substitute environment.</p>
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**Access to legal representation and paralegal services**

122★	<p>Assign additional resources to remote Indigenous communities where access to lawyers is limited.</p>	<p>MSSS asserts that it is difficult for it to correlate resource allocation and the right to information and that, as a result, MJQ is responsible for this call for action. However, section 133.1 of YPA defines the standards and obligations applicable to DYP's responsibilities or social intervention, enabling it to fulfill its duties with regard to the right to information set out in section 2 of chapter 2 of YPA. The findings of the Viens Commission report point to serious shortcomings in this area and remind us that DYPs have an important role to play in improving the situation. It would therefore be necessary for MSSS to carry out an analysis of the existing gaps in order to determine the resources (financial, human, material, etc.) needed to improve the situation described. For example, the lack of personnel restricting the transmission of information to Indigenous families, or the lack of awareness among youth protection worker of their obligations to inform families of their rights. These shortcomings give rise to major problems for Indigenous families in remote regions, and the expected improvements would make up for the lack of information mentioned by the Viens Commission.</p> <p>For its part, MJQ has introduced greater flexibility in the issuance of legal aid mandates, as presented in the assessment of Call for Action No. 44. In addition, it is currently analyzing recommendations 21 and 22 of the report by the Independent Working Group on the reform of the legal aid tariff structure. While interesting, the implementation of these recommendations will not fully meet the intent of Call for Action No. 122. Indeed, these recommendations address the financial aspect of increasing the number of lawyers, but do not touch on other aspects of the situation, such as the time lawyers spend in Indigenous communities. The <i>Report on the situation of the Itinerant Court in Nunavik</i>, known as the Latraverse Report, also lists a number of recommendations that could improve the</p>
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		<p>situation in line with a call for action. MJQ affirms that it will take this report into account in its future actions.</p> <p>Some of the government's actions are consistent with the call for action, but do not fully meet the desired objective. Indeed, MJQ remains mainly at the reflection stage for its next initiatives, while MSSS has not initiated any action of its own. The information received does not confirm that an increase in resources for remote communities has been deployed satisfactorily.</p>
<p><b>123★</b></p>	<p>Provide financial support for hiring courtworkers and promote the use of paralegal services to support and accompany parents and children who are subject to the <i>Youth Protection Act</i>.</p>	<p>Responsibility for the deployment of courtworker services to Indigenous people in matters of youth protection lies with MJQ. A sum of \$2.5 million for the years 2020-2024 was granted to increase core funding for Indigenous organizations responsible for these services, and to enable the hiring of additional courtworkers. This was also intended to increase the supply of youth protection services. This is in line with the wording of the call for action. However, there is no action plan, no targets linked to results, and no indicators to assess the contribution of this funding, specifically in the context of youth protection. What's more, at the time this report was being written, the Québec Ombudsman could not determine whether all communities have or will have equal access to this service, and whether this funding will be renewed and how.</p> <p>As for the second part of the call for action (support for parents and children), MSSS is collaborating with MJQ on the judicial trajectory in youth protection and the challenges inherent in access to the justice system through interministerial meetings. However, the Québec Ombudsman has no further details on the aims of this collaboration in relation to Call for Action No. 123. Finally, the information gathered does not allow us to conclude that parents and children subject to youth protection are getting more support from paralegal services and that this meets their needs. This call for action is therefore considered to have begun, but in an unsatisfactory manner.</p>
<p><b>124★</b></p>	<p>Initiate tripartite negotiations with the federal government and Indigenous authorities, as applicable, to agree on a budget to provide for Indigenous parents or guardians to attend hearings at the Court of Québec, Youth Division (transportation, meals and lodging costs).</p>	<p>MSSS is of the opinion that it cannot assume sole responsibility for initiating tripartite negotiations aimed at implementing Call for Action No. 124; to do so would contravene the Canadian constitutional framework and thwart the will of First Nations and Inuit to self-determination in matters of health and social services. In this context, MSSS is reaffirming its commitment to increased participation in tripartite discussions as part of the work of the Comité des partenaires sur le processus de gouvernance en santé et services sociaux des Premières Nations au Québec. Priorities are determined by FNQLHSSC, and the content of Call for Action No. 124 would not be one of them.</p> <p>MSSS points out that, given the Supreme Court challenge to "federal Bill C-92," now is not the time to continue tripartite youth protection negotiations. The ruling will shed important light on the matter that will need to be taken into account in future discussions within the partners' committee.</p>

## Cultural healing approaches

125

Recognize and financially support cultural healing approaches when proposed by families subject to the *Youth Protection Act*.

Amendments made by the *Act to amend the Youth Protection Act and other legislative provisions* are in line with Call for Action No. 125, including section 131.3, which states that among possible interventions, institutions, organizations and individuals must consider the use of customary and traditional care that is available, if it is brought to their attention. It should be noted that sections 131.7 and 131.10 of YPA, which deal with aspects of customary and traditional care, are still not in force, and it is not known when they will be.

MSSS indicates that the structures surrounding the implementation of the *Act to amend the Youth Protection Act and other legislative provisions* are being developed in collaboration with Indigenous representatives, and that the work will address these aspects. To meet the intent of this call for action, professionals will need to be well equipped. They will also need to be proactive in their efforts to recognize and value cultural healing practices, and to ensure that the responsibility for promoting and considering them does not fall solely on the shoulders of Indigenous families, communities and organizations.

No information has been provided regarding possible funding to respond to this call for action, as the financial needs assessment required to update these sections of YPA has not yet been completed. Moreover, this assessment will have to take into account the federal government's fiduciary role with Indigenous communities not covered by an agreement. Measure 3.7 of the 2022-2027 FNI Action Plan aims to support work on the recognition of cultural healing approaches. However, the Québec Ombudsman has no further details on the implementation of this measure regarding Call for Action No. 125.

The legislative changes made to YPA are a positive start to implementing the call for action, but the lack of funding and concrete action for its application on the ground means that we cannot confirm that progress is satisfactory enough for it to be considered implemented.

## Ethno-cultural data

126

Working with Indigenous authorities, make an annual calculation of the number of Indigenous children subject to the *Youth Protection Act* and obtain any other data deemed relevant under the Act in order to accurately assess the presence of Indigenous children in the system and how they are treated.

Work to improve the Projet Intégration Jeunesse (PIJ) information system is ongoing, but the issues surrounding this call for action are highly complex, according to MSSS. However, no information has been provided on the issues and improvements being developed in line with the call for action. To date, data collection methods are still not uniform across the province, and do not allow us to gather all the information needed to obtain an accurate picture of the presence of Indigenous children in the youth protection system. MSSS does not actively collaborate with Indigenous representatives on this issue, despite proposals from Indigenous partners to create an appropriate ethnocultural identifier in the PIJ system.

The Québec Ombudsman wishes to point out that the implementation of Calls for Action Nos. 4, 5 and 111 could facilitate the implementation of Call for Action No. 126. This call



		for action is deemed not to have been initiated, because although efforts are being made to improve the PIJ data collection system, the information is too general to indicate any real progress. Moreover, the absence of a concrete action plan makes it impossible to know what measures will be taken in the future.
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<b>Local services for children and their families</b>		
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127	<p>Increase availability and funding for local services intended for Indigenous children and their families, including crisis management services, in communities covered by an agreement and in urban environments.</p>	<p>On October 1, 2021, MSSS signed a new 2018-2025 agreement with NRBHSS on delivering and financing health and social services. Although signing of the agreement was delayed, in turn causing delays in implementing the budgets identified in 2018, this agreement provides for an increase in funding compared to the previous one (\$75 million for services and \$902.6 million for infrastructure). These investments will enable NRBHSS to develop and pursue the implementation of several projects in line with Call for Action No. 127.</p> <p>As part of the deployment of the Agir-tôt program and the enhancement of services in cases of child neglect for communities covered by an agreement, MSSS has allocated recurring funding. For the program in question, funding has been allocated to Nunavik and Eeyou/Eenou territory since 2019. The Naskapi Nation received its first funding for this program in 2022 but has not received anything for services in cases of child neglect. Eeyou/Eenou and Inuit received their first funding for these services in 2021.</p> <p>As part of the deployment of front-line services in urban areas, Native Friendship Centres and other Indigenous organizations that set up culturally safe front-line services have also received overall funding of \$27 million (2021-2025), as mentioned in the assessment of Call for Action No. 97. Indigenous children, youth and their families can benefit from these services, while also having access to HSSN services. However, the information provided does not make it possible to determine whether the amount allocated to urban areas corresponds to an increase in funding compared with the last budget, and whether this funding has made it possible to enhance the slate of services.</p> <p>Although these initiatives are interesting, the information obtained does not provide a complete picture of the implementation of this call for action. In fact, MSSS provided information on certain programs, but not for all the services covered by the call for action. Furthermore, the data collected do not demonstrate that the funding offered was allocated based on geographical, climatic and social realities, including population growth, as requested by the Viens Commission. Nor do the data provide any further indication of a possible correlation between the funding offered and a decrease in youth protection care. As a result, as it now stands, the Québec Ombudsman cannot confirm that the call for action has been initiated in a satisfactory manner.</p>
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<p><b>128</b></p>	<p>Initiate tripartite negotiations with the federal government and Indigenous authorities to increase the availability of local services intended for Indigenous children and their families, including crisis management services, in communities not covered by an agreement.</p>	<p>MSSS is of the opinion that it cannot assume sole responsibility for initiating tripartite negotiations aimed at implementing Call for Action No. 128; to do so would contravene the Canadian constitutional framework and thwart the will of First Nations and Inuit to self-determination in matters of health and social services. In this context, MSSS is reaffirming its commitment to increased participation in tripartite discussions as part of the work of the Comité des partenaires sur le processus de gouvernance en santé et services sociaux des Premières Nations au Québec. Priorities are determined by FNQLHSSC, and the content of Call for Action No. 128 would not be one of them.</p> <p>MSSS points out that, given the Supreme Court challenge to "federal Bill C-92," now is not the time to continue tripartite youth protection negotiations. The ruling will shed important light on the matter that will need to be taken into account in future discussions within the partners' committee.</p>
<p>Foster families</p>		
<p><b>129</b></p>	<p>Clarify and change the eligibility criteria for Indigenous foster families, including the criteria for the physical environment and the follow-up done with foster families, so that those families can access the services they need to provide the best possible environment for the children.</p>	<p>The eligibility criteria for Indigenous foster families are based on the <i>Reference for Intermediate and Family-type Resources</i>. The latter includes exceptions to consider in the specific context of foster families (family-type resources) in an Indigenous environment. However, the latest modifications to this framework date back to 2016, well before the findings and tabling of the Viens Commission's final report. MSSS also mentions the possibility of using the notwithstanding clause, also present in the reference framework since 2016, but this is onerous and does not make procedures any less unwieldy. Finally, following the conclusions of the Laurent Commission, work is planned for assessing the <i>Act respecting the representation of family-type resources and certain intermediate resources, and on the system for negotiating a collective agreement</i>. However, the information obtained is not such as to confirm that the work will concern the issues raised by this call for action more specifically. It therefore is not deemed to have been initiated.</p>
<p><b>130</b></p>	<p>Ensure that families and significant people who are not represented by an association and who foster Indigenous children receive financial compensation equivalent to family-type resources under the <i>Act respecting the representation of family-type resources and certain intermediate resources</i> and the negotiation process for their group agreement.</p>	<p>Since January 1, 2022, the daily allowance paid to applicants for kinship foster care who are not represented by an association has been \$28.97. In January 2023, this amount was indexed to \$30.85. Amounts may be added following the kinship foster care's evaluation to ensure that the setting meets the child's needs in terms of integration and integrity (e.g. furniture). For their part, family-type resources (FTRs) are accredited, bound by a contractual agreement and represented by an association. For the services they provide, these resources are entitled to basic daily remuneration that depends on the child's age. The amounts range is from \$22.74 to \$33.30 daily, with other amounts added according to the child's situation and the services offered. FTRs can also be reimbursed for expenses incurred, such as those relating to the child's clothing, schooling, health and sports or cultural activities. These expenses are not provided for and itemized for kinship foster care that is not represented by an association.</p>

		<p>According to MSSS, Call for Action No. 130 as formulated cannot be applied, as FTRs are remunerated for a level of responsibility that differs from that required of families and significant persons to whom a child is entrusted. The difference between the two has not been spelled out in such a way that what distinguishes them is clear. In addition, the Québec Ombudsman has not received any specific information on the amounts paid to foster families from a nation covered by an agreement who are not represented by an association and whose cost of living is higher due to their geographical remoteness.</p> <p>In the case of nations not covered by an agreement, a comparable rate is set to ensure equity with a non-Indigenous FTR, and this rate is paid by the federal government. However, the exact amounts have not been disclosed. Foster families are also reimbursed the same amount as FTRs for clothing, sports activities and so on. However, the data collected do not confirm that the issues related to the sharing of responsibilities between the two levels of government have been addressed and resolved.</p> <p>The Québec Ombudsman therefore considers the call for action to have begun, but in an unsatisfactory manner. Indeed, although improvements have been made since the release of CERP's final report, the total amount of financial resources granted to kinship foster care is still not equivalent to that of RTFs. What's more, lack of information makes it impossible to assess the call for action in its entirety.</p>
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<b>Rehabilitation centres</b>		
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131	<p>Invest to increase the number of available spaces where needed at youth rehabilitation centres in Indigenous communities covered by an agreement.</p>	<p>MSSS has indicated that it is not actively working to increase the number of places available in rehabilitation centres for youth with difficulties in Indigenous communities covered by an agreement. What's more, it has no information on needs of this nature. According to MSSS, it is the institutions (CIUSSSs and CISSSSs) that are responsible for analyzing needs and making requests. In the case of the Eeyou/Eenou and Inuit nations, it is not the CIUSSSs and CISSSSs that provide youth rehabilitation centre services on the territory. MSSS did not specifically detail what the process is with the communities covered by an agreement.</p> <p>According to MSSS, funding will be granted to institutions to increase the number of alternative rehabilitation centre places, among other things. In addition, more comprehensive work will be carried out to implement strategies to deal with the overflow of rehabilitation centres for youth with difficulties throughout Quebec. However, the information gathered does not allow us to conclude at this time that these investments will benefit the nations covered by an agreement. Furthermore, it is important to note that these alternative means would involve out-of-territory travel for young people, which was one of the main constraints that this call for action seeks to eliminate. As a result, no concrete initiatives have yet been taken in response to Call for Action No. 131.</p>
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<p><b>132</b></p>	<p>Initiate tripartite negotiations with the federal government and Indigenous authorities to increase the number of available spaces where needed at youth rehabilitation centres in Indigenous communities not covered by an agreement.</p>	<p>MSSS is of the opinion that it cannot assume sole responsibility for initiating tripartite negotiations aimed at implementing Call for Action No.132; to do so would contravene the Canadian constitutional framework and thwart the will of First Nations and Inuit to self-determination in matters of health and social services. In this context, MSSS is reaffirming its commitment to increased participation in tripartite discussions as part of the work of the Comité des partenaires sur le processus de gouvernance en santé et services sociaux des Premières Nations au Québec. Priorities are determined by FNQLHSSC, and the content of Call for Action No. 132 would not be one of them.</p> <p>MSSS points out that, given the Supreme Court challenge to "federal Bill C-92," now is not the time to continue tripartite youth protection negotiations. The ruling will shed important light on the matter that will need to be taken into account during future discussions within the partners' committee.</p>
<p>Post-placement services</p>		
<p><b>133</b></p>	<p>Increase the level of and funding for post-placement services for indigenous children in communities covered by an agreement and in urban centres.</p>	<p>The government has no plans to respond to this call for action. However, the Laurent Commission's implementation plan calls for the enhancement of the <i>Youth qualification program</i> and other support measures for this clientele, but this does not specifically concern Indigenous youth. MSSS confirms that work on applying the changes brought about by the <i>Act to amend the Youth Protection Act and other legislative provisions</i> is underway, and that the thought given to implementing provisions related to the passage to adulthood will take into account the particular features of intervention with Indigenous children.</p> <p>To date, MSSS has not provided any specific data concerning the increased supply and funding of post-placement services for Indigenous children in communities covered by an agreement and in urban areas. The <i>Youth qualification program</i> is provincial in scope, but the Québec Ombudsman has no confirmation that the particularities of Indigenous youth in communities covered by an agreement and in urban settings will be taken into account and does not know whether these youth will benefit from the increased service supply. This call for action has thus not been implemented.</p>
<p><b>134</b></p>	<p>Initiate tripartite negotiations with the federal government and Indigenous authorities to increase the level of and funding for post-placement services in Indigenous communities not covered by an agreement.</p>	<p>MSSS is of the opinion that it cannot assume sole responsibility for initiating tripartite negotiations aimed at implementing Call for Action No.134; to do so would contravene the Canadian constitutional framework and thwart the will of First Nations and Inuit to self-determination in matters of health and social services. In this context, MSSS is reaffirming its commitment to increased participation in tripartite discussions as part of the work of the Comité des partenaires sur le processus de gouvernance en santé et services sociaux des Premières Nations au Québec. Priorities are determined by FNQLHSSC, and the content of Call for Action No. 134 would not be one of them.</p> <p>MSSS points out that, given the Supreme Court challenge to "federal Bill C-92," now is not the time to continue tripartite youth protection negotiations. The ruling will shed important light on the matter that will need to be taken into account during future discussions within the partners' committee.</p>

Governance

135★

Provide communities that want to update their agreements or take over youth protection services under s. 37.7 of the *Youth Protection Act* with financial support and immediate and unrestricted guidance.

MSSS does not directly support communities in taking charge of youth protection services. In addition, agreements under section 131.23 (formerly 37.7) of YPA must be negotiated between MSSS institutions and communities. MSSS has not provided a list of existing or ongoing agreements and negotiations and is unable to indicate whether any agreements have been renewed. However, it confirms that it has not received any recent requests for funding to enter into agreements under section 131.23. According to MSSS, this is probably connected to the legal challenge of the *Act respecting First Nations, Inuit and Métis children, youth and families* (commonly known as "federal Bill C-92") at the Supreme Court (the communities would wait to see how the situation develops before engaging in new processes).

The purpose of Measure 1.1.26 of the 2017-2022 FNI Action Plan was the signature of agreements establishing a special youth protection regime for Indigenous people. However, no details were provided on its impact. In the new 2022-2027 FNI Action Plan, Measure 3.6 is aimed at supporting community autonomy in matters of youth protection by providing support and guidance for signing and implementing agreements on this subject. MSSS provides funding of \$900,000 for this purpose. However, there is no information to show that this amount will enable a response to Call for Action No. 135.

No concerted initiative or government directive has been issued to truly support the implementation of such agreements under section 131.23 of YPA. Recently adopted, the *Act to amend the Youth Protection Act and other legislative provisions* could have been an opportunity to make changes along those lines, but this was not done. This call for action is therefore not considered to have begun.

136★

Encourage the conclusion of agreements under s. 37.5 of the *Youth Protection Act* by relaxing criteria and simplifying the process that leads to the conclusion of such agreements.

Since the Viens Commission final report was tabled, the government has not done anything to encourage the signature of agreements under section 131.20 (formerly 37.5) of YPA. Requirements have not been relaxed and the process leading to the signing of such agreements has not been simplified. According to MSSS, it has no control over the process (M30) required for signing such agreements. Moreover, the recent legislative amendments introduced by the *Act to amend the Youth Protection Act and other legislative provisions* do not affect section 131.20 and there are no plans to implement Call for Action No. 136. This call for action is therefore deemed not to have been initiated.

# 137★

Provide communities that want to take over youth protection services under s. 37.5 of the *Youth Protection Act* with financial support and immediate and unrestricted guidance.

MSSS does not financially support communities wishing to take charge of youth protection services by means of section 131.20 (formerly 37.5) of YPA. It has not relaxed Québec principles and standards that stand in the way of negotiating agreements under 131.20. Furthermore, it says that it provides the same support to communities as to HSSN institutions, without any particular distinction. MSSS sustains its role to validate the conformity of agreements proposed by institutions and communities. It does not intervene upstream or provide support. It should also be noted that the recent legislative amendments made by the *Act to amend the Youth Protection Act and other legislative provisions* do not affect section 131.20, and that no plan is provided for as envisaged in Call for Action No. 137.

The purpose of Measure 1.1.26 of the 2017-2022 FNI Action Plan was the signature of agreements establishing a special youth protection regime for Indigenous people. However, no details were provided about the benefits. In the new 2022-2027 FNI Action Plan, Measure 3.6 aims to support community autonomy in matters of youth protection by providing support and guidance for signing and implementing agreements on this subject. According to the information gathered, MSSS provides financial support in the order of \$900,000 under Measure 3.6. To date, this measure has been used to fund a liaison officer position to support the transition of CIUSSS Mauricie-et-Centre-du-Québec and CIUSSS Saguenay Lac-Saint-Jean as the *Loi de la protection sociale atikamekw d'Opitciwan* (LPSAO) comes into force.

While interesting, this funding was not used to support and accompany the Opitciwan community in the process allowed by section 131.20 of the YPA. That community took the "federal Bill C-92" route to take charge of its youth protection services. The funding was granted to the CIUSSS, not to the community. It should be noted that the Québec government's legal challenge to federal "Bill C-92" is perceived by many Indigenous representatives as contradicting the Viens Commission's intention to promote the autonomy of communities in taking charge of their youth protection services.

This call for action is therefore not considered to have been initiated because although funding has been granted, it has not been used for the same purposes required by Call for Action No. 137.

No.	Call for action wording	Appreciation of the Québec Ombudsman
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**FOLLOW-UP MECHANISMS**

**Québec Ombudsman**

<b>138★</b>	Give the Québec Ombudsman the mandate to assess and follow up on the implementation of all the calls for action proposed in this report until such time as they have been fully executed.	This call for action has been carried out as intended, therefore follow-up by the Québec Ombudsman is underway and will continue until the calls for action have been fully implemented.
<b>139★</b>	Ensure that the budget granted to the Québec Ombudsman is adjusted to take into account the new responsibilities that it has been given.	Since the funding requested by the Québec Ombudsman was granted without difficulty or modification, this call for action is deemed to have been carried out.
<b>140</b>	Include in the <i>Public Protector Act</i> the obligation for the Québec Ombudsman to produce and make public each year a progress report on the implementation of the Commission's calls for action until such time as they are fully executed.	No changes to the <i>Public Protector Act</i> have been made or considered. In the opinion of SRPNI, a legislative change is not required for the Québec Ombudsman to be able to follow up on the implementation of the Viens Commission's calls for action. This call for action is considered to be under analysis.

**Translation and distribution of the CERP report**

<b>141★</b>	In cooperation with the representatives of the Indigenous peoples of Québec, translate this Commission's summary report as soon as possible into all Indigenous languages used in written form in Québec and distribute it.	No action has been taken to implement this call for action.
<b>142</b>	Ensure that the content of this Commission's summary report is distributed as soon as possible by means of alternative oral distribution methods identified by the Indigenous authorities themselves based on their peoples' needs and realities.	It is not the government's intention to carry out this call for action at this time.

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