

# The Ministère de la Sécurité publique

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

## CIVIL PROTECTION

Part of the mission of the Ministère de la Sécurité is to develop the national civil protection plan. It is responsible for coordinating government action and the administration of financial assistance programs in this field. In this regard, its job is also to inform, support and advise government departments and bodies, citizens and municipalities.

Since the *Civil Protection Act* came into force in 2001, the division of responsibilities as regards civil protection has been clearly established. Citizens are the first line of responsibility for their own security. In the event of a disaster, municipalities are the authorities responsible for introducing and managing emergency measures in their territory. They must establish a framework for civil protection. Municipalities must be able to rely on support from government resources coordinated by the Department.

### Complaints Reviewed by the Québec Ombudsman

Civil protection	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	6	8	6	2

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

## TYPE OF COMPLAINTS

Complaints from citizens generally concern the administration of financial assistance programs. The grounds for dissatisfaction may be eligibility for programs or the amount of assistance offered.

### **Erosion of the banks of the St. Lawrence**

In 2006-2007, management of the erosion of the banks of the St. Lawrence represented a significant problem involving the Department by virtue of its responsibility for civil protection. The Québec Ombudsman made an official intervention on the issue. The main functions of the Department in this matter are the coordination of government action, provision of information to municipalities and citizens, and the preventive component of its financial assistance programs.

In spring 2006, two citizens' committees from the North Shore region approached the Québec Ombudsman in connection with government management of the erosion of the banks of the St. Lawrence. Their initiative was mainly aimed at the Ministère des Affaires municipales et des Régions and the Ministère de la Sécurité publique, which at the time were in joint charge of the file. In November 2006, the Conseil des ministres handed over coordination of the file to the Ministère de la Sécurité publique.

At the end of its analysis, the Québec Ombudsman ruled that there were no grounds for intervening in respect of these committees' specific requests. Among other things, it had no reasonable grounds for challenging the analysis of the situation presented to it. In addition, some complaints concerned decisions taken by local or regional authorities, over which it has no jurisdiction. However, two elements of the file caught its attention and were the subject of an official intervention: the quality and timely availability of information, and the government intervention plan.

From 2000 to 2004, a committee of experts studied various aspects of the phenomenon in order to characterize the situation. This committee was acting under the supervision of a coordination committee representing the five main departments concerned: the Ministère des Affaires municipales et des Régions, the Ministère de la Sécurité publique, in its civil protection responsibility, the Ministère des Transports, the Ministère des Ressources naturelles et de la Faune, and the Ministère du Développement durable, de l'Environnement et des Parcs.

In the fall of 2004, information on the risks identified was passed on to local authorities and citizens. Subsequently, citizens had access to fuller and more detailed information only in June 2006, when the expert committee's report was published.

For close to two years, then, citizens—having been informed of the presence of risks affecting the safety of their families and their property—received no information on concrete action to be taken, or on the intentions of local and government authorities. Nor was there any information on the sharing of responsibilities between the numerous actors. During this period, municipalities and regional county municipalities received only preliminary guidelines on land use planning. According to the information that the Québec Ombudsman was able to obtain, they were still awaiting definitive orientations in December 2006.

In view of the above, on August 31, 2006, the Québec Ombudsman wrote to the deputy ministers of the Ministère des Affaires municipales et des Régions and the Ministère de la Sécurité publique in order to satisfy itself that its concerns would be considered in future decisions and actions. In doing so, it pointed out the vital importance, given the nature of the matters at issue, of keeping the publishing informed in an accurate, complete, understandable and timely manner. It stressed the necessity of making citizens aware of their responsibilities, of assistance available to them, and of the measures that concern them. It also underlined the need to provide municipalities and regional county municipalities with the working and communications tools they need to fulfill their roles as regards civil protection, land use planning and services to the public. Furthermore, the Ombudsman reminded the deputy ministers that all players must have quick access to clear information concerning the sharing out of responsibilities, as to the coordination of interventions, the programmes set into place and to the development of knowledge. Lastly, the Ombudsman pointed out that the government intervention plan should be announced and implemented as quickly as possible.

On November 30, 2006, the government announced a risk prevention framework governing the management of various natural phenomena such as ground movement, flooding and erosion of shorelines. The framework defined three main stages in the management of this file, namely analysis and communication of the risk, identification and choice of solutions, and implementation of solutions. A sum of \$55 million over five years has been set aside for carrying it out, including \$26.6 million for erosion of banks.

At the present time, the Québec Ombudsman is not completely reassured. After analyzing the published framework and meeting with representatives of the Ministère de la Sécurité publique, it has found no guarantee that its concerns regarding information to citizens and consultation among actors have been given effective consideration. Consequently, it will monitor this file in order to satisfy itself that its concerns will be reflected in the implementation of the prevention framework and the concrete actions of the departments concerned.

The Québec Ombudsman considers that the erosion of the banks of the St. Lawrence is an issue of great concern. On the North Shore, among other places, the phenomenon threatens many properties and infrastructures. It has a direct effect on the safety of many citizens living in 4 regional county municipalities, 31 municipalities and 7 aboriginal communities. In addition, the erosion of banks is not limited to the North Shore region and carries major economic risks. In the reasonably near future, the government and its partners will probably be called upon to intervene in other regions of Québec.

### Recommendations

With regard to the implementation of the Government risk-prevention framework for the prevention of natural hazards, more specifically erosion of shores, and given that this issue involves various departments, it is recommended:

- That the coordination of all government actors be a priority at all times, given the scope and complexity of this issue;
- That all these actors adapt their working methods and participate actively, at the appropriate time and in a harmonized manner, in the search for concrete solutions and in supporting affected citizens;
- That all the departments and organizations involved make known the concrete actions they will take, including information to the public, as soon as possible;
- That all the departments and organizations concerned adopt a schedule of work with known deadlines;
- That any other department, organization or authority that intervenes in the file on an ad-hoc basis act in the same way.

### Comments of the Ministère de la Sécurité publique

The Ministère de la Sécurité publique recognizes that the governmental coordination entrusted to it as a function of its civil protection role is a key factor in the success of the risk prevention framework. Moreover, steps taken to communicate the risk to regional and municipal authorities and, ultimately, to the citizens concerned must be carefully orchestrated because of their importance. This is the spirit in which implementation of the risk prevention framework—involving the Ministère des Transports, des Affaires municipales et des Régions, the Ministère du Développement durable, de l'Environnement et des Parcs, and the Ministère des Ressources naturelles et de la Faune—has been operating since November of last year.

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

Furthermore, an inter-ministerial governance structure has been set up. This is aimed at ensuring that the prevention framework is managed in a concerted fashion and that government action in prevention initiatives over the next four years is consistent. Moreover, the Ministère de la

Sécurité publique is proposing to municipalities a concerted approach beginning with cost-benefit analyses, a decision-making tool that will help them analyze solutions open to them and choose the most appropriate.

In this regard, the Department stresses that in March 2007 the inter-ministerial committee approved nine agreements that were signed with seven municipalities in three administrative regions. Coordination of these agreement is carried out at the regional level with the support of technical and scientific experts.

## CORRECTIONAL SERVICES

The Direction générale des services correctionnels of the Ministère de la Sécurité publique is responsible for enforcement of the *Act respecting correctional services*, which has been replaced by the *Act respecting the Québec correctional system*, which came into force in February 2007.

Consequently, the Direction has the following responsibilities:

- the provision of pre-sentencing reports and any other information requested by the courts;
- the assessment of the persons committed to their custody;
- the supervision in the community and the care of the persons committed to their custody, until the end of their sentences;
- the development and implementation of programs and services that contribute to the reintegration of offenders, and the facilitation of access to specialized programs and services offered by community-based resources; and
- the carrying out of research in the corrections field, in conjunction with the other stakeholders.

## THE ROLE OF THE QUÉBEC OMBUDSMAN IN RESPECT OF PRISONERS

In Québec, the Québec Ombudsman acts as a correctional ombudsman. This mandate—to monitor the activity of correctional services, and more specifically detention facilities—requires more than mere analysis of complaints lodged by prisoners or their families. It necessitates regular visits to places of detention and both preventive and remedial interventions.

Confinement in detention facilities involves a relationship of authority and dependence of prisoners towards actors in the prison environment. In this field, the State is invested not only with important powers but also important responsibilities. The respect for basic rights, in the context of detention, security and crowded conditions is more than just another obligation among many. The mission of the Québec Ombudsman is to monitor independently and impartially the manner in which Services correctionnels du Québec performs this mandate. This is a matter of finding immediate solutions to a variety of problems—problems of daily living that assume heightened importance in a detention context.

The Québec Ombudsman takes an interest in, among other things, the application and implementation of *An Act respecting the Québec correctional system*. Social reintegration, frequently presented as the best means of protecting the public, is among the fundamental objectives of this new act. For this reason, the Québec Ombudsman intervenes and will continue to intervene with a view to making incarceration, when it is resorted to, an opportunity for meaningful treatment of offenders at all levels and especially with regard to social reintegration.

### A PORTRAIT OF THE CORRECTIONAL CLIENTELE

The most recent portrait of correctional clientele, ordered by the Ministère de la Sécurité publique, dates from 2002.<sup>1</sup> Here are some of the characteristics that emerged from this portrait:

- The average age of prisoners in Québec detention centres was 35;
- 89% were male;
- 23% of offenders questioned had a high school leaving certificate while 9.4% had not finished elementary school. A very high proportion of those interviewed stated that they had dropped out of the school system before the age of 16. Among these respondents, 25% had left school before the age of 14;
- 46% of respondents stated that they were employed at the time they were sentenced. In 2003, employment assistance was the source of revenue of about 20% of the female clientele admitted into detention facilities;
- 39% of respondents said that drug or alcohol consumption was a problem for them at the time of the investigation. In 54% of cases, an offence had been committed under the influence of these substances;

1/ ROBITAILLE, C., GUAY, J-P & SAVARD, C. (2002), *Portrait de la clientèle correctionnelle du Québec en 2001*, Montréal, Société de criminologie du Québec, for the Direction générale des services correctionnels of the Ministère de la Sécurité publique du Québec.

- 13.8% of those interviewed stated that they had no fixed address, and 5% said that they were homeless;
- 51.5% of the correctional clientele said that they had seen a health professional for mental health related problems. Close to half had seriously considered suicide; 34% of detainees said they had attempted suicide.

Data from 1995, listed by the advisory committee to Emploi-Québec (2005),<sup>2</sup> indicate that close to 30% of correctional clientele are living with mental health problems.

## 2006-2007: A PIVOT YEAR

### ENTRY INTO FORCE OF THE *ACT RESPECTING THE QUÉBEC CORRECTIONAL SYSTEM*

#### **A long awaited implementation**

*An Act respecting the Québec correctional system* was adopted in 2002 but only came into force on February 5, 2007. This keenly awaited reform of the normative framework will bring about many transformations in both correctional orientations and methods.

During study of the draft of *An Act respecting the Québec correctional system*, in 2002, the Québec Ombudsman submitted a position paper in which it stressed the importance of providing correctional services with the resources they need to carry out their mission fully. In its subsequent annual reports, the Québec Ombudsman asked on repeated occasions for this act to be brought into force, which could not be done before today for lack of the required credits. It welcomes the efforts made by the Minister and the Ministère de la Sécurité publique, in a restrictive financial framework, to allow this reform to come into force, even in minimal conditions.

#### **The principles of the reform**

The Act introduces a new sharing of responsibilities between correctional services and the Commission québécoise des libérations conditionnelles. It also sets forth the mandate of correctional services with regard to assessing the risk level and the needs of offenders. An important role is given to community organizations as partners of correctional services.

<sup>2/</sup> Comité aviseur pour la clientèle judiciairisée adulte, (2005), *Portrait de l'employabilité de la clientèle judiciairisée adulte ayant des problèmes de santé mentale*.

The Act also recognizes the rights of the victims of criminal acts. In particular, they can be informed of the parole date of an offender of whom they have been a victim. In certain circumstances, they will be given an opportunity to state their point of view in the matter.

Social reintegration is a collective responsibility: to achieve it, the collaboration of all actors, both of the government and the community, is essential. By increasing the importance placed on social integration, the Act imposes strict obligations on the Ministère de la Sécurité publique with regard to assessment and program administration. However, the current situation in detention facilities allows one to expect and foresee significant challenges in regards to the implementation of this new legislation.

### **Monitoring by and expectations of the Québec Ombudsman**

The Québec Ombudsman is monitoring the application of this new regime. In this respect, throughout the past year it has been attentively examining preparation and training activities, and the creation of regulations and application directives.

It has found that the many transfers between facilities make it more difficult to invest in a continuous process of reintegration for detainees. These interruptions, combined with remoteness from family and close relatives, may compromise the success of projects to prepare for release, such as educational, professional or psychosocial training activities.

The Québec Ombudsman is also paying special attention to the many work sites that the Direction générale des services correctionnels has set up to ensure implementation of the reform. It has attended a number of meetings with personnel of the Direction. Its interventions are geared towards the results of these work sites which, for the most part, are expected over the next few years.

For the moment, the reform has led to the acquisition of a new tool for assessing risks of reoffending and the needs of people in the custody of correctional services. While assessment exercise is undoubtedly essential, the fundamental role of correctional services with regard to developing and providing programs aimed at social reintegration must be kept in mind.



Implementation of the reform began in February 2007, and it is too early to analyze its impact. However, its implementation must be subject to constant attention if it is to succeed. This reform promises positive impacts for the safety of the public and for social harmony in Québec.

It is both paradoxical and worrying that, in parallel with the reform's entry into force, access to programs and activities inside facilities is increasingly restricted. Services provided are under threat in particular from lack of funds. There is a discrepancy between the principles of the reform and the reality as perceived by the Québec Ombudsman during its investigations and interventions.

In order for the principles underlying the reform to be respected, the Québec Ombudsman considers it essential to maintain services provided in detention facilities and in the community. Equally, in the medium term, a wider offering of programs and services is necessary if the success of the objectives of social reintegration and prevention of reoffending is not to be compromised.

### **Recommendations**

In view of the fact that knowledge of the profile and specific characteristics of the various categories of detainees is essential for making decisions and implementing adequate social reintegration measures, it is recommended:

- That the relevance and effectiveness of social reintegration measures for detainees taken during their detention and on their release be reassessed, taking into account more specific needs, particularly those related to improvement of health, prevention of violence, and reoffending;
- That this reassessment be followed by the adoption of government orientations for the social reintegration of detainees, together with specific measures arising therefrom;
- That the portrait of correctional services clientele, in particular the social and penal characteristics of detainees, be better documented from 2008-2009 and brought up to date thereafter.

### Comments of the Ministère de la Sécurité publique

- Since the research report “2001 Profile of Québec’s Correctional Clientele” was submitted in September 2002, activities aimed at obtaining an ongoing portrait of the clientele have continued.

With the implementation of *An Act respecting the Québec correctional system* (LSCQ), constitution of an ongoing portrait of correctional clientele and its characteristics has been a priority and will be included, on a recurring basis, in the research program of Services Correctionnels du Québec (SCQ).

- Implementation of the priorities for action set out in the “Document de réflexions et d’orientations portant sur les programmes, services et activités de soutien à la réinsertion sociale en établissement de détention” will be monitored over the coming years.
- In the framework of the implementation of the LSCQ, Services Correctionnels du Québec is finalizing a “Document de réflexions et d’orientations portant sur les programmes, services et activités de soutien à la réinsertion sociale en établissement de détention.” This document, in addition to establishing the legal and normative framework, principles, and a report on the situation, sets out orientations and priorities for action regarding the implementation of articles 21, 22 and 23 of LSCQ. In addition, SCQ will shortly introduce a program developed in collaboration with representatives of university circles. This program is aimed at raising the awareness of offenders in detention and in the community, and developing their sense of responsibility.

More specifically, a review of provincial instruction 4D3, *Soins de santé aux personnes incarcérées*, is planned for the fall of 2007. Special attention will be paid to the importance of ensuring the follow-up and continuity of health services on a detainee’s release into the community.

In spring 2006, the Minister of Health and Social Services and the Minister of Public Safety met and agreed to monitor the evolution of discussions and agreements reached between the correctional network, health and social services agencies, and centre de santé et de services sociaux (CSSS) in the Québec City and Chaudière-Appalaches regions. Participants in this meeting agreed to examine what is being done in these regions as regards physical and mental health care and social services (drug addiction, conjugal violence, sexual deviance, intellectual deficiency), in order to envisage the possibility of exporting these agreements to other regions of Québec. The Ministère de la Sécurité publique is currently waiting for a provincial representative of the Ministère de la Santé et des Services sociaux (MSSS) in order to begin this work.

## PRISON CAPACITY

### The state of overpopulation

2006-2007 saw the occupation rate in Québec detention facilities reach a new high, exceeding prison capacity.<sup>3</sup> Everything suggests that the situation is neither anomalous, nor temporary. Almost all facilities were regularly overpopulated, despite an increase in their operational capacity<sup>4</sup> over the past few years.

This increase in operational capacity was basically achieved by “doubling” cells, that is, replacing single beds with bunk beds in cells designed for a single inmate. Despite this increase in density of occupation, the operational capacity of Québec facilities has long been exceeded. The addition of beds, which was initially seen as a temporary expedient, has since 2003 become the norm.

The prison population in Québec facilities has been steadily increasing over the past 10 years. Although the number of admissions has fallen significantly in the past few years<sup>5</sup>, the average daily population has continued to increase. The average daily present population of persons awaiting trial in 2005-2006 was 1,718.5, which represents an increase of 34.5% over 2000-2001. This increase and the substantial reduction in the average number of persons on temporary absences (from 1,069.2 to 317.3) have meant that the average daily population in Québec detention facilities stood at over 4,000.<sup>6</sup> Operational capacity in March 2007 was 3,767 places. During 2006-2007, total capacity was greatly exceeded on several occasions. Obsolete facilities are receiving more and more persons in excess of capacity.

In March 2007, in facilities for male clientele, there were 4,041 places available. The so-called operational capacity of these facilities, which represents use deemed to be secure, was established at 3,556 places for the same period.

3/ Prison capacity: the total number of beds that can serve to accommodate detainees. The term “actual beds” is also used to refer to this capacity, as opposed to the number of beds available (the number of actual beds minus the number of closed beds).

4/ Operational capacity: the maximum number of beds that can be used in regular fashion without compromising the legal and security framework. The Ministère de la Sécurité publique calculates operational capacity as 88% of the number of beds available.

5/ The total number of admissions for 2000-2001 was 43,911. In 2005-2006, it was 38,281.

6/ The average daily population was 3,231.3 in 2000-2001. Today it stands at 4,191.9.

On March 23, 2007, for example, the 16 facilities for male clientele housed a population of 4,100 persons, equivalent to an occupancy rate of 116% of operational capacity. On the same day, nine of these facilities had more inmates than beds available.

At the Amos facility alone, 101 men and one woman<sup>7</sup> were listed, whereas the total number of available places is 86, which corresponds to an occupancy rate of 118% of prison capacity and 134% of operational capacity. The population of the Saint-Jérôme facility stood at 120.2% of operational capacity and that of the Hull facility at 127.8%.

### **The impact of overpopulation on the network of facilities**

Beyond these occupancy rates, management of beds in facilities is becoming more difficult and hazardous. In order to understand the amplitude of the problem, one needs to take into account the many constraints involved in prison management. Classification of inmates based on their status, detainees awaiting trial<sup>8</sup> and convicts, protection that has to be provided for certain individuals, and the presence of women temporarily incarcerated in facilities for the male clientele are among these constraints. Management must also deal with clienteles having specific needs such as criminalized groups and persons suffering mental health problems. Managing these realities in the context of overpopulation is highly complex and involves decisions whose impact must be carefully considered.

The Québec Ombudsman deplors the persistence of this problem, which it raised in a special report in 1999 and in all its annual reports since then. Unfortunately, not only has the situation failed to improve, but the Québec Ombudsman's investigations and visits have demonstrated that detention conditions have deteriorated.

In January, the Québec Ombudsman visited six detention facilities to observe in situ the consequences of overpopulation on detention conditions. This also afforded an opportunity to gather the point of view of interveners and inmates.

During these visits, the Québec Ombudsman observed the lack of space and shortage of beds available in common living areas. A large number of inmates are obliged to sleep on thin mattresses directly on the ground, notably in classrooms and gymnasiums.

7/ In certain situations, women may be temporarily incarcerated in facilities for men. They are isolated from the men in these cases.

8/ Persons detained by order of a court while they await the holding of their trial

Some facilities are obliged to use admission cells, which are not equipped with proper sanitary facilities, to sleep inmates. The salubrity of admission cells, whose primary purpose is to serve as waiting areas, left much to be desired, particularly because several persons had to live there crowded together for several days and were detained 23 hours out of 24. The Québec Ombudsman also learned that some facilities used cells designed for isolation or reclusion because of lack of space in the hospital ward or other accommodation sectors.

In circumstances such as these, it is easy to imagine the challenge posed by managing intermittent sentences, normally served on weekends.

Lastly, the Québec Ombudsman noted that other facilities are obliged to give certain persons sleeping accommodation in sectors of the facility that also house persons of a different classification, with all the tensions that this brings. In this situation, managing security risks is complicated by the fact that inmates accommodated in a sector must be locked up in their cells in the evening, before another group is brought in to sleep in the available spaces. This operation is repeated very early in the morning, and inmates who have been transferred from another sector are obliged to move, carrying their personal belongings in a regulation paper bag, to another part of the facility so that the first group of inmates can come out of their cells for breakfast.

Considering that the increase in the prison population is constant and that all facilities have reached their full capacity, a number of actors and independent experts have expressed to the Québec Ombudsman their discomfort with solutions that can be envisaged. Adding a third mattress to cells designed for one person and permanently using gymnasiums as dormitories—which implies an end to social reintegration activities held there—are the last possible expedients for managing places in detention facilities as best one can.

Furthermore, managing overpopulation takes up a major part of managers' time. Currently, the multiplication of various procedures to maintain security in facilities, and transfers of excess inmates to other detention facilities severely limits follow-up and supervision of inmates.

### **Prospects for the renewal of penal infrastructures**

On September 28, 2006, the Minister of Public Security announced that Société immobilière du Québec had been awarded the mandate to carry out preliminary studies of five penal infrastructure projects in the regions. On the same occasion, the Minister unveiled a renovation program for detention facilities in the Montréal region and associated investments of \$55 million. Of this budget, \$50 million is reserved for the renovation and construction of a new building at the Montréal detention facility, which will not create any new places. According to information received, work may not be completed until 2009.

If this work is carried out, the overall increase in prison capacity will be 338 places. However, this addition will not make it possible to reach sufficient operational capacity to handle the current average daily population. Consequently, the Québec Ombudsman considers that other avenues must be explored to face up to these conditions in the short and medium term.

### **The situation in the meantime**

There are few simple, immediately applicable and inexpensive solutions for reducing the density of use of current infrastructures. The Québec Ombudsman considers that, given prison capacity, detention facilities no longer have the minimum margin for manoeuvre needed to adequately perform their mission and that all personnel are working in very difficult and highly demanding conditions.

## Recommendations

In view of the fact that, while we welcome the announcements of renovations of penal infrastructures, we note that they will be insufficient to counter the negative aspects of overpopulation;

In view of the fact that hygiene and salubrity conditions in detention facilities require immediate attention, it is recommended:

- That the Ministère de la Sécurité publique work with the Ministère de la Santé et des Services sociaux to establish and implement without delay a plan to improve the salubrity of detention facilities, particularly from the standpoint of preventing disease and managing contamination risks;
- That the Ministère de la Sécurité publique examine the layout of premises, in particular dormitory cells, so that basic conditions of living, dignity and respect for individuals are provided.

In view of the fact that, due to the growth in the number of inmates and the capacity of detention facilities, overpopulation has become an enduring situation;

In view of the negative impacts of the transfer of detainees on their social reintegration and the consequences for their families, and in order to limit this practice to urgent situations that cannot be dealt with in any other way;

In view of the fact that central management of transfers and releases for security purposes or because overpopulation is a complex and demanding task, it is recommended:

- That correctional services acquire an integrated information management system that will facilitate the taking into account of all data relevant to management of transfers and releases;
- That they ensure that practices are improved so as to avoid, or else minimize, the negative impacts of the transfer on health care received and on the social reintegration of detainees;
- That correctional services take the measures necessary to enhance and tighten up existing practices for all foreseeable short-term transfer cases, including management of absences for court appearances and returns to facilities of origin.

### Comments of the Ministère de la Sécurité publique

- In fall 2007, as part of work being carried out in collaboration with the Direction de la santé publique du Québec, updates to the *Politique relative aux maladies infectieuses en milieu carcéral* and the *Politique relative aux services de santé à la clientèle correctionnelle* are planned. These will take into account the salubrity of detention facilities.

In addition, hygiene measures are already being discussed with the Ministère de la Santé et des services sociaux (MSSS), particularly when risk situations are identified. Also, SCQ has tabled its continuity plan in the event of a flu pandemic, which can be extended to all situations where there is a risk of the spread of infectious diseases. This plan provides for preventive measures related to salubrity. The implementation of this plan will be dependent on credits granted.

- Services correctionnels du Québec (SCQ) has assessed all its infrastructures and has tabled its planning framework which, stretching over 15 years, identifies priorities that target, among other things, the replacement of obsolete facilities (including those having cells without sanitation) and the progressive elimination of the use of dormitories.
- SCQ already has an integrated process for the management of information relating to management of transfers and absences. It should be stressed that granting absences is not used as a means of managing overpopulation.

Also, SCQ is using certain inter-regional transfer mechanisms aimed at minimizing the impact on the prison population while complying with its social reintegration mission. Detainees can therefore be closer to their families and community resources that are able to support them in their progressive reintegration process.

Already, certain improvements in practices have been introduced, particularly the obligation to send a medical record for the detainee to the receiving facility at the time of a transfer between facilities, if possible the day before the transfer takes place. In some facilities, including that of Rivière-des-Prairies, the facility's health care service is consulted before a transfer is authorized. The detainee will remain in the facility, particularly if a meeting with a physician is scheduled. The update to instruction 4D3 will also take this aspect into account.

- Transfer practices are based on an assessment of the files of detainees and decisions take a number of factors into account.



## OFFENDERS SUFFERING FROM MENTAL HEALTH PROBLEMS: THE SITUATION UNDER STUDY

These findings have led the Québec Ombudsman, in its capacity of correctional ombudsman, to examine the situation of offenders suffering from mental health problems, whose numbers are increasing in Québec detention facilities.

Managing them poses an increasing challenge, which calls upon not only the Ministère de la Sécurité publique, but also the Ministère de la Santé et des Services sociaux. The Ministère de la Justice is also concerned at another level.

The Québec Ombudsman is examining the reasons why such a large number of people suffering from mental health problems regularly, and sometimes repeatedly, find themselves behind bars. The situation has multiple repercussions, not only on the detainees, but on their families and on workers in detention facilities. Beyond these primary considerations, preparing them for social reintegration in a manner adapted to their state of health, for their own benefit and that of all citizens, is compromised.

There is a crying need for health services adapted to the situation of these citizens. They must not be deprived of the care they require by reason of their imprisonment. The health and social services network must also assume responsibility for providing them with the health and services necessary to ensure that their state of health, at the very least, does not deteriorate but also improves.

In this regard, the Québec Ombudsman wishes to highlight the joint initiative of the justice, civil protection, and health and social services networks of the Québec City region aimed at persons suffering from mental disorders who have to undergo a judicial experience, either in a penal facility or in open custody. This agreement, reached in May 2006, is designed to improve the accessibility and continuity of front-line services at the time of referrals from the correctional environment to the health and social services network.

This initiative, which includes specialized training for actors in the various networks, is the expression of a desire to correct a problem that has persisted for several years. The results obtained following application of the agreement should be assessed with regard to its relevance for other regions of Québec.

During the past year the Québec Ombudsman has undertaken a study of all the procedures and situations that lead persons with defective mental health into prison. This study should enable us to assess in a global, rigorous and impartial manner the response that public services can bring to the complex needs of these citizens, managing whom requires consultation, risk management and medium-term vision.

## INTERVENTIONS OF THE QUÉBEC OMBUDSMAN

### VISITS TO FACILITIES

During 2006-2007, the Québec Ombudsperson held working sessions with the authorities of four detention facilities. These meetings gave rise to exchanges with managers, interveners (including correctional officers), and inmates.

Also, as part of regular activities, 14 visits were made to 11 facilities during the year. These visits were an opportunity to observe the condition of the premises, and to hold discussions with management of the facility, officers in charge of a particular sector and inmates.

### THE IMPACT OF BUDGET RATIONALIZATION MEASURES

Although in April 2006 investment was announced to allow the application of the new Act, since September detention facilities have had to adjust to the imposition of an additional rationalization effort.

In some facilities, measures have had the effect of limiting or barring access to gymnasiums. As a result, therapeutic activities that had been held there, such as those of Alcoholics Anonymous and Narcotics Anonymous, have been suspended. Among the measures adopted in some facilities are reduction and rearrangement of visiting hours. The Québec Ombudsman intervened at a facility to invite management to look for an alternative to closure of the gymnasium, which compromised the holding of conjugal violence prevention sessions, among other things.

These decisions do not fit well with the objectives set by the new Act.

## PREVENTIVE INTERVENTION

Examining a new regulation is a major exercise, in which experience acquired through daily contact with inmates, the staff of detention centres and civil servants tasked with implementing the Act can prove useful. In addition, the adoption of a new legal framework is an opportunity for analyzing the application instructions and directives adopted by the Department. These complete the normative framework that serves as a foundation for the actions and decisions of correctional officers and managers of detention facilities. The Québec Ombudsman has studied the draft regulation in detail and wishes to highlight the collaboration it received from the Ministère de la Sécurité publique at all levels in doing so. It commented on all the draft instructions that the Department submitted to it. A number of its recommendations were taken up.

### *THE REGULATION UNDER THE ACT RESPECTING THE QUÉBEC CORRECTIONAL SYSTEM*

The draft *Regulation under the Act respecting the Québec correctional system* was published on November 15, 2006. In December, the Québec Ombudsman recommended a number of modifications.

Further to these recommendations, the government agreed, in particular, to reinsert the previously enacted principle that depriving a detainee of freedom and disciplinary sanctions are the only measures that can be taken against him or her.

In addition, it amended the wording of the regulation in order to clearly provide for the right of detainees to benefit from at least one hour a day of physical exercise outdoors. Lastly, the regulation maintains the confidentiality of written communications between detainees and the Québec Ombudsman.

The Ministère de la Sécurité publique has indicated that several of the recommendations of the Québec Ombudsman would be taken into account when formulating application directives that were the source of other interventions by the Ombudsman, the main ones being:

#### ■ *Directive on mail between inmates and the Québec Ombudsman*

Further to recommendations from the Québec Ombudsperson, the draft *Regulation under the Act respecting the Québec correctional system* was modified with regard to the examination of mail between the Québec Ombudsman and inmates. Correctional services adopted a secure procedure for the management of correspondence that guarantees the confidentiality of such exchanges and their origin.

■ *Instruction on preventive isolation*

The Québec Ombudsman issued various recommendations and comments further to its analysis of a draft instruction on the preventive isolation of inmates. The main points addressed were:

- clarification of the notion of reasonable grounds;
- actuation of the right to review for illiterate persons;
- time taken to review preventive isolation decisions by the facility's director;
- verification by a qualified person of the physical and mental health of persons placed in isolation;
- creation of a provincial data registry on the use of the preventive isolation measure.

With the exception of the recommendation concerning the data registry on the use of preventive isolation, the above recommendations by the Québec Ombudsman were accepted and the instruction was modified accordingly.

The Québec Ombudsman also intervened in respect of three further draft instructions: that on the disciplinary process, that on inmates' rights to visits, and that on the complaint processing procedure.

## FOLLOW-UP ON THE 2005-2006 ANNUAL REPORT

### INMATES SUBJECTED TO AN ABUSIVE SEARCH RECEIVE AN INDEMNITY

In its annual report of last year, the Québec Ombudsman cited a case of two inmates who were subjected to illegal searches. In August 2006, the authorities concerned confirmed that each of the victims will receive compensation of \$5,000.

### Complaints Reviewed by the Québec Ombudsman

Correctional services	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	1438	1588	1081	507

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

## TYPE OF COMPLAINTS

A large number of complaints made by inmates were related to problems involving multiple factors. During 2006-2007, the subjects of complaints essentially fell into the following categories:

- Health care: 25%
- Loss of rights or privileges: 12%
- Accommodation conditions: 9%
- Transfers and transportation between facilities: 9%
- Loss of personal belongings: 8%
- Classification of inmates: 8%
- Services and activities: 7%
- Conduct of officers and complaints of maltreatment: 5%
- Management and calculation of sentence: 5%
- Security measures: 3%
- Procedures regarding permission for absence: 3%
- Discipline: 3%
- Complaints processing procedure: 3%.

### **Three main problem areas have been observed in the processing of complaints:**

1. inadequate monitoring and supervision of inmates
2. insufficient coordination of services within facilities
3. adverse effects of transfers

#### 1. MONITORING AND SUPERVISION OF INMATES

In the course of its investigations, the Québec Ombudsman found that there was insufficient availability of correctional services officers to supervise and monitor the activities of offenders. Citizens who had been incarcerated for several weeks stated that they had had no contact with their assigned officer or complained of the time taken to receive a reply to requests for information.

Overpopulation in Québec detention facilities increases the complexity of security measures and adds to the workload of correctional services officers in this respect.

Activities aimed at providing control and security for persons that are the responsibility of Québec correctional services are of vital importance. Officers must also take on a range of tasks related to supporting persons during their sentence and preparing them for their return to the community. They have little time to do this.

### Recommendations

In view of the impacts of the role of correctional officers on the implementation of the Act and on the ability of facilities to carry out their entire mission, it is recommended:

- That the Ministère de la Sécurité publique establish a normal level of service for detention facilities in order to attain the objectives of the *Act respecting the Québec correctional system*, on the basis of the ratio between the number of a facility's full-time employees and the number of detainees;
- That it assess the gap between this normal level of service required to attain the Act's objectives and the current level of service, and take whatever measures are required to implement the Act.

### Comments of the Ministère de la Sécurité publique

- Is not possible to establish, on the basis of a number of full-time or part-time employees, a standard level of service either with regard to *An Act respecting the Québec correctional system* (LSCQ) or to current operations, due to the organization of work and to the number of courts served, which differ from one detention facility to another. These disparities make it impossible to set an employee/inmate ratio.
- The financial resources and staff allotted by the Conseil du trésor in connection with the LSCQ were devoted exclusively to its implementation, independently of financial difficulties and the shortage of personnel observed elsewhere in the correctional network. Normal adjustments have been made to the initial planning, but always according to the implementation of the act.

SCQ intends to raise the problems of financial and human resources encountered during a follow-up imposed by the Conseil du trésor in the first year following the Act's entry into force.

### **Waits, delays and omissions in assessments**

During 2006-2007, a number of inmates of a Québec detention facility contacted the Québec Ombudsman to complain of long waiting times for the production of their assessment and the development of their correctional case management plan. In this connection, for the period from April to December 2006, i.e. prior to the new act's entry into force, the Québec Ombudsman examined 40 grounds for complaint. In the 27 files in which it took action, 21 complaints were deemed to be well founded.

Various working sessions were held with representatives of Services Correctionnels du Québec for the purposes of determining possible solutions. The Québec Ombudsman found that in summer 2006, in at least two facilities that frequently experience periods of overpopulation, probation officers had accumulated major backlogs in the production of assessments, with the result that they had difficulty in producing them in a timely manner. The fact that probation officers were not replaced during the summer period or under any other circumstances is also a factor. The objective was limited to completing assessments for the hearings before the Commission québécoise des libérations conditionnelles, when sentences are one third completed.

A number of complaints received by the Québec Ombudsman were from citizens whose requests for temporary absence could not be processed, because they had not been subjected to an in-depth assessment. In several cases, inmates were transferred to another facility even before meeting a probation officer for an assessment. In these circumstances, they assumed that they would be assessed by a professional in the receiving facility. This was not the case, and they must wait until they are returned to the original facility. In other cases, the hearing before the Commission québécoise des libérations conditionnelles was postponed because of the absence of an assessment.

On January 10, 2007, the Québec Ombudsman informed the Direction générale des services correctionnels of its concerns. As a result of its intervention, the Québec Ombudsman was informed, on March 29, 2007, that measures had been taken to shorten the time taken to produce assessments. Among the means used to achieve this aim are the temporary contribution of professionals working in open custody and the introduction of criteria aimed at prioritizing certain files.

### Recommendation

In view of the fact that delays observed in completing assessments and developing correctional case management plans for inmates are of great concern, because assessment is an important instrument in the implementation of the new act, it is recommended:

- That regular monitoring of assessment production times be carried out, with the aim of ensuring that the right of detainees to be assessed in a timely manner is respected, and with the aim of preventing the adverse effects of delays in assessment on their social reintegration.

### Comments of the Ministère de la Sécurité publique

Following the signature in September 2004 of the administrative agreement between the Commission québécoise des libérations conditionnelles (CQLC) and Services correctionnels du Québec (SCQ) on operating modalities concerning the conditional release program, SCQ set up regular follow-up. With the entry into force of *An Act respecting the Québec correctional system* (LSCQ), this follow-up will be enhanced to take the new parameters into account.

Moreover, since the entry into force of the LSCQ, SCQ has called upon the services of prison counsellors to reduce production times.

Here are some examples of complaints examined during the year and deemed well founded by the Québec Ombudsman.

### An inmate waits an unreasonable length of time for his assessment

At the time when the citizen contacted the Québec Ombudsman in November 2006, he said he had completed one sixth of his one-year sentence. He had been transferred to another facility a few weeks previously on account of overpopulation in his original facility. He complained that he could not be assessed by the detention centre where he now was.

The citizen was serving a first prison sentence for an offence that did not involve a crime against a person or property. His file stated that a job was waiting for him outside. He maintained that his spouse, without sufficient income, was in danger of having their lease cancelled for non-payment of rent. The testimony of certain actors suggested that the citizen, once assessed, could obtain permission for temporary absence in view of the quality of elements in his file.



In spite of all this, he had to wait for his return to his original facility, which was unable to assess him more quickly for lack of staff. The citizen nevertheless made a request for temporary absence between the one-sixth point and one-third point of his sentence. His request was naturally refused by the facility's director, because the file did not contain the required in-depth assessment. The citizen appealed this decision to the Commission québécoise des libérations conditionnelles, as provided by the law at the time. The Commission upheld the decision of the facility's director, for the same reason, i.e. the absence of an in-depth assessment.

A few weeks later, the Québec Ombudsman learned that the citizen had finally been assessed just prior to the one-third point of his sentence. A conditional release was subsequently granted.

### **The right to declare a work-related injury and to make a claim**

The Québec Ombudsman has already intervened and made recommendations in cases where a facility refuses to give inmates forms for the declaration of a work-related injury. Over the years, detention facilities have introduced corrective measures from time to time.

However, certain complaints received recently indicate that the problem persists. Access to a claim form is a right provided by law, and it is not up to the staff of detention facilities to decide whether or not an injury is attributable to an industrial accident or an occupational disease within the meaning of *An Act respecting industrial accidents and occupational diseases*.

### **Form not given despite repeated requests**

An inmate working in the workshops of a detention facility declared that he had suffered an industrial accident. The facility's physicians saw him and referred him to the hospital for consultation, where he was placed on a waiting list for an operation. Despite his request, staff at the facility neither gave him nor completed a form from the Commission de la santé et de la sécurité du travail.

After steps were taken, at the request of the Québec Ombudsman, the facility's director reminded the staff concerned that access to such forms is a right. It is the sole duty of the Commission de la santé et de la sécurité du travail to decide whether there has been an occupational injury.

## 2. INSUFFICIENT COORDINATION OF SERVICES WITHIN FACILITIES

A number of complaints that the Québec Ombudsman has acknowledged to be well founded raise questions as to the effectiveness of coordination of resources, and communication between actors within a single detention facility or between facilities. This finding emerges from the examination of several complaints concerning very different subjects.

Although conclusions cannot be drawn for all services of detention facilities, the Québec Ombudsman notes that in a number of cases officers and other actors learned of the situation by virtue of the Ombudsman's intervention, when inmates had been complaining repeatedly for several days or even several weeks.

### **A sector left without surveillance for close to three hours**

A person suffering from severe problems of diabetes was confined in a cell in a detention facility's admission sector. The person contacted the Québec Ombudsman to complain of the absence of surveillance. In the course of its investigation, the Québec Ombudsman learned that tasks had been reorganized because of overpopulation.

Whether tasks were poorly understood, or whether this was an oversight, the fact remains that an entire sector was left without surveillance for close to three hours. During this period, the plaintiff felt unwell and called for help, but nobody was there to answer him.

Further to this complaint, which the citizen lodged simultaneously with the Québec Ombudsman and the facility's complaints processing procedure, remedial measures were introduced, and normal surveillance of the sector resumed.

### **No winter coat available for an inmate**

Many people held in Québec detention facilities are needy. The *Regulation under the Act respecting the Québec correctional system stipulates*, among other things, that appropriate clothing should be supplied to people who have none.

A citizen detained since May 2006 who received no support from friends or family members contacted the Québec Ombudsman. He asserted that he had no winter clothing. In October he had made a request for a loan of clothing, particularly a coat so that he could go out into the yard every day. The facility supplied him with a few articles, but told him that no coat or warm garment was available. The citizen was told at the same time that coats were only loaned to detainees awaiting a court appearance.

In January 2007, the citizen contacted the Québec Ombudsman, because he was still unable to go out into the courtyard. A number of actors at the detention facility confirmed that no coats were available for needy persons, in view of the excessive cost of articles of this nature.

After taking many steps, the Québec Ombudsman learned of the existence of about a hundred coats stored in premises used for procurement. During a subsequent meeting, the director of administration acknowledged that there had doubtless been a lack of communication between the personnel of the various branches concerned, with the result that the citizen was given wrong information. As a consequence, between the time of his first request in October and his release on February 5, 2007, the facility did not supply a coat to the citizen, thereby depriving him of his daily exercise in the yard.

On February 23, 2007, at the request of the Québec Ombudsman, the facility circulated a memorandum informing officers in accommodation sectors particularly that it was now possible to lend coats to needy persons.

### 3. ADVERSE EFFECTS OF TRANSFERS

Many transfers to other facilities are made because of overpopulation. In such a context, human aspects become a secondary consideration. As a result, a number of detainees contacted the Québec Ombudsman, hoping to be transferred back to the facility located in their home region.

The debate about the effects of incarceration on individuals and their families is not new. The Québec Ombudsman has had many opportunities to point out the effects of such transfers. The cases set out below, which represent only a few of many accounts received in the course of the past year, demonstrate the scale of the effects of transfers in human terms.

#### **A detainee wishing to stay in contact with hospitalized family members**

In February 2007 a citizen was transferred to another facility because of overpopulation. He contested the transfer, particularly because his daughter was in the hospital. He wanted to obtain news of her more frequently, but long-distance calls are expensive. Moreover, he informed the Québec Ombudsman that his spouse was suffering from depression and was receiving treatment in the hospital. The Québec Ombudsman contacted the facility's transfer manager to bring the facts reported by the citizen to his attention. On March 14, 2007, the citizen confirmed to the Québec Ombudsman that he had been brought back to the original facility.

### **Transfer compromises a detainee's social reintegration process**

A detainee who had recently been transferred to another facility complained to the Québec Ombudsman about the impacts of this decision on his steps towards social integration. He was highly motivated in this respect, and reported that he had been taking part in various therapeutic and educational activities offered by the originating facility. Among other things, he had signed up for personal training courses. However, he had been able to attend only one session before being transferred, on account of overpopulation, to another facility that did not provide these services. The same was true of Alcoholics Anonymous meetings, which he strongly wished to attend two evenings per week. The citizen was also concerned at the impact of the situation when the time came to request conditional release.

On this last point, staff of the detention facility contacted by the Québec Ombudsman was reassuring: the absence of reintegration activities should not harm the citizen, since he was not responsible for the situation, and the elements in his file would demonstrate his will to involve himself to the Commission.

Comments like these provide food for thought about the real opportunities offered to detainees to prepare for their social integration. Can an individual's "will" substitute for actual involvement in a structured social reintegration process?

### **Medical treatment interrupted because of a transfer**

The demand for health services in detention facilities is very high, while material and human resources are limited. Every year, the Québec Ombudsman receives many complaints reporting the interruption of medical treatment as a direct or indirect result of a detainee's transfer from one facility to another. Between April and December 2006, 43 complaints of this nature led the Québec Ombudsman to intervene with detention facilities. And yet, the Department's directives clearly state that the departments concerned in detention facilities must avoid any interruption of treatment.

The problem is complex. Differences in practices and the way health services are organized, constraints arising out of the confidentiality of medical files, and the many circumstances surrounding transfers of detainees can make adopting a unified operational approach, valid for all cases, difficult. However, interrupting medical treatment required by a detainee is not acceptable.

In some cases, coordination between facilities and the various services appears to be defective, particularly between officers responsible for organizing transfers and nursing departments. On occasion, nursing departments learn of a detainee's transfer from actors in the receiving facility. Employees whose job it is to provide health services to the detainee must then take the necessary steps to obtain the requisite information from the originating facility. The situation becomes more complex when, in moving from one facility to another, a detainee transits via a third facility. Detainees may have to wait, sometimes for several days, before the medication prescribed by a detention facility physician is administered in their new place of detention. The ensuing delay can result in significant adverse effects on their health.

#### **Prescriptions not forwarded**

A detainee was receiving medical treatment for various health problems. In particular, he had prescriptions for an analgesic and an antidepressant. After being transferred to a new facility, he received the analgesic only. Checks revealed that the originating facility did not transmit part of the prescriptions contained in his file. Although the citizen notified the nursing station at the new facility on his arrival, it took an intervention by the Québec Ombudsman for the information to be correctly exchanged between the two facilities.

For more than a week, the citizen was deprived of his antidepressant, the prescription for which was authorized by a detention facility physician, and consequently suffered physical and emotional impacts.

#### **Methadone dose could not be adjusted**

A detainee was following a detoxification program requiring methadone. He was in a regional facility where he was able to meet a physician who adjusted the dose each week. However, he was transferred to another facility because of overpopulation. Because involvement in the program had not been initiated in the new facility, personnel declined to monitor the case and, consequently, did not adjust his dose.

The facility to which the citizen was transferred did not have the services of a physician authorized to prescribe methadone, while the physician in the originating facility could not adjust the dose without meeting the patient.

The Québec Ombudsman intervened, and as a result the citizen was returned to his originating facility.

### **The right to see a physician**

A detainee suffering from hepatitis C requested and was granted by the facility a consultation with a microbiologist in a hospital centre in the region. An appointment was set up, but the facility decided to transfer the citizen to another facility.

The new facility, expecting that the detainee would shortly be returned to the originating facility, refused to allow him to meet a physician, while the originating establishment cancelled the appointment with the microbiologist after the transfer.

The Québec Ombudsman intervened to arrange for the citizen to be seen by the physician of the new facility while awaiting his return to the originating facility. It also ensured that a new appointment was arranged with the microbiologist.