
REPORT OF THE COMITÉ TRIPARTITE
FEMMES-JUSTICE
(Women and justice tripartite committee)

**Presented to the Comité interministériel de coordination
en matière de violence conjugale,
familiale et sexuelle
(Interdepartmental coordination committee on domestic, family and sexual
violence)**

February 24, 2003

TABLE OF CONTENTS

COMMITTEE MEMBERS	1
<u>COMMITTEE COLLABORATORS.....</u>	2
<u>GUESTS</u>	3
INTRODUCTION	5
A few statistics.....	5
Domestic violence.....	5
Sexual assault	6
<u>With respect to Native persons</u>	7
Significant dates	8
Important dates in Native matters.....	9
<u>The Committee, its mandate and its approach</u>	11
The principles that guided the Committee's work	12
THE FINDINGS.....	16
With respect to Native persons.....	17
THE RECOMMENDATIONS	20
Police officer training	20
<u>With respect to Native persons</u>	21
Police intervention	22
With respect to Native persons	24
Training of Attorney General's prosecutors	25
<u>With respect to Native persons</u>	26
Role of the Attorney General's prosecutors	26

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

With respect to Native persons	28
Safety of the victim	29
With respect to Native persons	30
Other recommendations	30
Other recommendations in Native matters.....	31
APPENDIX 1.....	33
Training for police officers and Attorney General's prosecutors	33
APPENDIX 2.....	35
Police services specialized in matters of domestic violence and sexual assault.....	35
APPENDIX 3.....	36
Informing the victim on the legal process	36
APPENDIX 4.....	37
Directive N° ACC-5 - Accusation (charge)- Infractions hybrides (alternate offences).....	37
APPENDIX 5.....	38
Directive N° PLA-1 - Négociation de plaidoyer (plea bargaining).....	37
APPENDIX 6.....	41
Extract from the Declaration of Services Available to Citizens with respect to the Commitments of the ministère de la Justice toward Crime Victims.....	41
APPENDIX 7.....	42
Directive N° ACC-2 - Accusation (charge) - Acte d'accusation privilégié et nouvelle dénonciation (preferred indictment and new information)	42

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

APPENDIX 8.....	44
Victim support services.....	44

COMMITTEE MEMBERS

Bureau d'aide aux victimes d'actes criminels	Suzanne Lamy Claire Lessard
Fédération de ressources d'hébergement pour femmes violentées et en difficulté du Québec	Caroline Babin Marie-Josée Lamarre
Native Women of Québec Inc.	Danielle Rochette
L'R des centres de Femmes du Québec ¹	Dominique Labelle Julie Raby
Ministère de la Justice	Sonia Beaudoin Anne Couture Marie-France Gagnon
Ministère de la Sécurité publique	Nourdine Bouzaza
Regroupement des Centres d'aide et de lutte contre les agressions à caractère sexuel	Carole Tremblay
Regroupement provincial des maisons d'hébergement et de transition pour femmes victimes de violence conjugale	Louise Riendeau
Secrétariat à la condition féminine	Hélène Cadrin

Remarks:

This report does not represent the official position of the departments or the secretariat represented on the Committee.

In addition, certain persons no longer hold the same positions on the list of the committee members, collaborators and guests.

¹This group was a member of the committee, as initially set up, until September 17, 2002.

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

COMMITTEE COLLABORATORS

Native Women of Québec Inc.

Michèle Audette

Ministère de la Justice
Direction générale de la planification et
de la coordination des activités ministérielles

Jacques Prigent

Ministère de la Sécurité publique
Direction générale des affaires policières,
de la prévention et des services de sécurité

Marc Rouillier

Regroupement des Centres d'aide et de lutte
contre les agressions à caractère sexuel

Denise Beaulieu
Caroline Farley
Chantal Robitaille
Michèle Roy

Regroupement provincial des maisons
d'hébergement et de transition pour femmes
victimes de violence conjugale

Fleurette Boucher
Sylvie Lupien

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

GUESTS

Association des chefs de police des Premières nations du Québec	Helen Cayer Gorden McGregor
Association des directeurs de police du Québec	Lorrain Audy Serge Racette
Centre d'aide aux victimes d'actes criminels de la Côte-Nord	Bernadette McKenzie
Centre d'aide aux victimes d'actes criminels de l'Estrie	Nicole Laroche
CLSC du Plateau Mont-Royal (court section)	Lise Poupart
Collège de Sherbrooke	Diane Brunelle
Native affairs consultant	Michèle Rouleau
École nationale de police du Québec	Diane Bessette Guy Bruneau
Fédération de ressources d'hébergement pour femmes violentées et en difficulté du Québec	Monica Kolstein
Native Women of Quebec Inc.	Prudence Hannis France Robertson Jinny Thibodeau
Ministère de la Justice Direction générale des poursuites publiques	Rachel Boivin Sophie Lamarre Christian Leblanc Dannie Leblanc Robert Parrot Carmen Rioux Marie Andrée Trudeau Jean Turmel
Ministère de la Sécurité publique Direction du service général d'inspection	Richard Renaud

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

Ministère de la Sécurité publique Direction générale des affaires policières, de la prévention et des services de sécurité	Denis Racicot
Department of the Solicitor General of Canada	Marc Voinson
Nation Atikamekw	Lucie Basile
Secrétariat aux affaires autochtones	Pierrette Beaudoin
Sécurité publique de Mashteuiatsh	Larry Philippe
Service de police de la Ville de Montréal	Pierre Leduc Venise Vignola
Service de police de la Ville de Québec	Louis Bernard Claude Lemire
Sûreté du Québec	Daniel Cadieux Julie Lacoste François Lapierre Pierre Paré Mario Smith

INTRODUCTION

Violence against women remains a very widespread problem within Québec society. Female victims of domestic violence and sexual assault are subject to a number of physical, psychological, economic and social prejudices. Guilt, shame and fear also come into play and have major repercussions on them. Many and very serious are the consequences of this violence on the victims' moral and financial autonomy, on their social participation and on their physical and psychological health.

In common with domestic violence, sexual assault falls within a dynamic of one person dominating another. These two control-based phenomena prove to be major obstacles to equality between men and women and thereby perpetuate relations of inequality. At the bottom line, all forms of violence against women undeniably compromise their fundamental rights. It is thus in the public interest to respond to violence against women and strive to eliminate it.

The Comité tripartite Femmes-Justice—hereinafter referred to as the Committee—chose to take up the social problem of domestic violence and sexual assault from the perspective of violence committed by men against women since, in most cases, it is women who are the victims of it. This is not to deny or hide the fact that men can be victims of this type of violence, for it is an act that can be committed by any person, regardless of gender.

A FEW STATISTICS

The following statistics illustrate the magnitude of the violence experienced by women. They do not, however, present a full picture of the complexity of this phenomenon.

DOMESTIC VIOLENCE

Over a period of one year, more than 100 000 women in Québec, that is, 6% of women 18 years of age and over living in a spousal relationship, were victims of physical violence inflicted by their partners.² According to police data released by

² Institut de la statistique du Québec, press release, May 15, 2002, p.1. This information resulted from the investigation into violence against women living in spousal relationships in Québec, *Enquête sur la violence envers les conjointes dans les couples québécois* (1998).

Report of the Comité tripartite Femmes-Justice (Women and justice tripartite committee)

the ministère de la Sécurité publique,³ nearly 16 000 people were victims in 2000 of crimes against the person in the context of a conjugal relationship, that is, committed by their spouses, former spouses or intimate partners. Of the 16 000, 85% were women, 57% of whom were victims of common assault; 18% were threatened, 11% were the object of criminal harassment; 9%, armed assault or assault causing bodily harm; 2%, sexual assault; 2% abduction or forcible confinement; and fewer than 1% were victims of murder or attempted murder. Nearly half of the women were injured during the commission on the crimes. Only minor care, rather than medical treatment, was required in most cases, as injuries were mild. However, 4% of the women, or 219, were seriously injured, and 14 died. Since 1995, 95 women have been killed by their spouses, former spouses or intimate partners.⁴

One third of the women who reported an incident of domestic violence to the police were between 30 and 39 years of age, 22% were 18 to 24 years of age, 18% were between 40 and 49 years of age and 16% 25 to 29 years of age. Victims falling into other age groups accounted for 10% of victims.⁵ In 45% of the cases, the victims were the spouse of the alleged author of the crime, 44% were the former spouse and 10% the intimate friend.⁶ The large majority (98%) of alleged authors of domestic violence against women were men.

SEXUAL ASSAULT

According to the results of the Statistics Canada survey on violence against women conducted in 1993, 3% of women in Québec were victims of a sexual assault during the 12 months preceding the survey. The survey also affirms that 34% of Québec women were victims of at least one sexual assault since the age of 16, 21% of Québec women were victims of sexual assaults, 20% of sexual touching and 6% of women were victims of both. Based on the female population of Québec in 1991, and when the incidence rate of 3% put forth by the same survey is applied, it may be approximated that 86 952 women in Québec 15 years of age and older are victims of sexual assault each year.⁷

³ Ministère de la Sécurité publique, *Statistiques 2000 sur la violence conjugale*, 2001, pp. 12-13.

⁴ Ministère de la Sécurité publique, unpublished data. Excludes domestic violence committed by intimate partners in 1995 and in 1996.

⁵ Ministère de la Sécurité publique, *Statistiques 2000 sur la violence conjugale*, 2001, p. 12.

⁶ *Idem*, p. 18.

⁷ Gouvernement du Québec, *Orientations gouvernementales en matière d'agression sexuelle*, Produced by the Direction des communications, ministère de la Santé et des Services sociaux, 2001, p. 30.

Report of the Comité tripartite Femmes-Justice (Women and justice tripartite committee)

The results of surveys conducted among different groups of the population indicate that up to 90% of all sexual assaults are not reported to the police.⁸ In instances of sexual assault, the relation between the disclosure rate is closely tied to the type of relationship between the victim and the aggressor: the closer the ties between them, less is the likelihood of the victim revealing the assault to the police. Yet such situations are by far the most common, since 70% to 85% of sexual assaults are committed by persons known to the victims.⁹ Barely 10% of sexual assaults are reported to the police.¹⁰ Among the Canadian provinces, Québec has the lowest denunciation rate.¹¹

According to the police data released by the ministère de la Sécurité publique,¹² more than 4,400 people reported to the police that they had been victims of sexual assault in Québec in 2000.¹³ Of this number, 82% were women, 63% of whom were under 18 years of age. With respect to the sexual assaults known to the police forces, the large majority (98%) of the alleged perpetrators were men, 83% of whom were adults.

WITH RESPECT TO NATIVE PERSONS

Domestic violence and sexual assault

Native women have a greater risk than other Canadian women of being victims of domestic violence. A number of studies confirm a higher rate of domestic violence among this portion of the population. A Statistics Canada survey¹⁴ reveals that 25% of Native women stated that they had been assaulted by their husbands or former husbands during the five years preceding the survey, compared to 8% of non-Native women. In addition, the rate of Native women at risk of being killed by their spouses during a period of separation is eight times greater than the rate for non-Native women.

⁸ Besserer, Sandra, "Sexual Offences" Juristat, Ottawa, Statistics Canada, Canadian Centre for Justice Statistics, Service Bulletin, 1999, p.1.

⁹ Tourigny, M., Lavergne, C. (1995). *Les agressions à caractère sexuel. État de la situation, efficacité des programmes de prévention et facteurs associés à la dénonciation*, Montréal, Laboratoire de recherche en Écologie humaine et sociale (LAREHS), Université du Québec à Montréal, p. 95.

¹⁰ Orientations gouvernementales en matière d'agression sexuelle, Gouvernement du Québec, 2001.

¹¹ Ramoisy, J. and M. Di Domenico (1995). *La violence faite aux femmes : à travers les agressions à caractère sexuel*, Québec, Conseil du statut de la femme, Gouvernement du Québec, p. 82.

¹² Ministère de la Sécurité publique, Statistiques 2000 sur la criminalité au Québec, 2001, pp. 18-19.

¹³ Includes victims of more than one sexual offence.

¹⁴ Statistics Canada: 1996 Survey, General Social Survey of 1999. Aboriginal Peoples of Canada in 2001, Family Violence in Canada: a statistical profile – 2001 and the Solicitor General of Canada, 2000.

Report of the Comité tripartite Femmes-Justice (Women and justice tripartite committee)

The forms of violence experienced by native victims are also more serious. Nearly half of (native) victims of violence (48%) live under potentially fatal threats made by a spouse or former spouse, while the percentage for the general population is 31%.

Some 41% of Native victims declared being physically injured; 18% were given medical treatment for their injuries and 32% feared for their lives because of the violence. In comparison, 28% of non-Native victims were physically injured, 9% received medical care and 24% feared for their lives.

To conclude, Ontario statistics on Native communities¹⁵ indicate that eight women out of ten were victims of violence and abuse, in most cases, by their spouses.¹⁶ Native women were found to consider violence as a means of expression that is passed down from generation to generation. More than 75% of Native girls under 18 were victims of sexual abuse;¹⁷ one-third of the Native population is 14 years of age and under.

SIGNIFICANT DATES

- 1970: Thoughtful examination by feminist activists of the social character of the phenomenon of violence against women.
- 1975: Resources for battered women first established.
- 1976: Signing by Canada of the International Convention on Economic, Social and Cultural Rights (United Nations Organization).
- 1976: Charter of Human Rights and Freedoms (Québec).
- 1981: Signing by Canada of the Convention on the Elimination of All Forms of Discrimination Against Women (United Nations Organization).
- 1982: Canadian Charter of Rights and Freedoms.
- 1985: Politique d'aide aux femmes violentées (policy on assistance to battered women) (Ministère de la Santé et des Services Sociaux).

¹⁵ In drafting this report, we have drawn on Ontario statistics since Québec has no statistics on domestic violence and sexual assault in the context of the Native environment.

¹⁶ Ontario Native Women's Association, *Breaking Free: A Proposal for Change to Aboriginal Family Violence* (Thunder Bay: Ontario Native Women's Association), 1989: 18-19.

¹⁷ *Alliance of Five Research Centers of Violence* (1999). *Violence prevention and the girl child*. London: Center for Research on Violence Against Women and Children, University of Western Ontario, 2002.

Report of the Comité tripartite Femmes-Justice (Women and justice tripartite committee)

- 1985: Declaration of the Basic Principles of Justice for Victims of Crime and Abuse of Power (United Nations Organization).
- 1986: Politique d'intervention en matière de violence conjugale (policy on responding to domestic violence) (Ministère de la Justice and the Attorney General).
- 1987: Creation of the Comité interministériel de coordination en matière de violence conjugale et familiale (Gouvernement du Québec).
- 1988: An Act respecting assistance for victims of crime.
- 1993: The Politique en matière de condition féminine (policy on the status of women) (Gouvernement du Québec).
- 1995: Rapport Agressions sexuelles STOP (Gouvernement du Québec):
Politique d'intervention en matière de violence conjugale : prévenir, dépister, contrer la violence conjugale (domestic violence response policy: prevent, detect, respond to domestic violence) (Gouvernement du Québec).
- 2000: The World March of Women.
- 2001: Government policies on sexual assault (Gouvernement du Québec).
- 2003: Rapport sur la mise en œuvre des engagements gouvernementaux 1996-2001 (Politique d'intervention en matière de violence conjugale) (domestic violence response policy).

IMPORTANT DATES IN NATIVE MATTERS

- 1985: The federal government repeals, through Bill C-31, the discriminatory provisions (women and their children having lost their status following a marriage to a non-Indian can, upon request, recover it) provided for under the Indian Act in follow up to various representations made by feminist associations before international agencies and tribunals.
- 1987: The first initiative taken by Quebec Native Women Inc. (FAQ) with regards to domestic violence and sexual assault: launching of the information campaign *La violence nous déchire réagissons!*

Report of the Comité tripartite Femmes-Justice (Women and justice tripartite committee)

- 1990: Launching by the FAQ of its newsletter, *Ensemble contre la violence-Anishnabe-kwe*.
- 1993: Publication by the FAQ of a document: *l'État des lieux. Violence et santé mentale chez les Autochtones du Québec* and filing by the FAQ of a memorandum to the Royal Commission on Aboriginal Peoples recommending that priority be given to the matter of domestic violence.
- 1995: Holding of the first FAQ conference on violence in Native communities, *Voici la Pointe du jour* and launching of the brochure, *Dépasser la violence*.
- Filing of the report produced by the Comité de consultation sur l'administration de la justice en milieu autochtone (advisory committee on the administration of justice in Native communities) chaired by Judge Jean-Charles Coutu, *La justice pour et par les Autochtones*.
- 1997: Creation of the position of justice and public safety coordinator within the FAQ.
- 1998: Second FAQ conference on violence in Native communities *Voici la Pointe du jour* and launching of the brochure *Pour le respect de notre dignité humaine : la justice en milieu autochtone*.
- 2000: Participation of the FAQ in the World March of Women which states its position on the need to take action to improve the condition of Native women in shelters.
- 2001: Third FAQ conference on violence in Native communities *Voici la Pointe du jour*.
- Creation of the position of shelter coordinator within the FAQ.
FAQ hires the very first Native resource person to work at a CAVAC (North Shore).
- 2002: FAQ hires a Native resource person to work at the CAVAC Abitibi-Témiscamingue.

Report of the Comité tripartite Femmes-Justice (Women and justice tripartite committee)

THE COMMITTEE, ITS MANDATE AND ITS APPROACH

The World March of Women was the opportunity for the Québec government to review its way of doing things in many fields and, particularly, that touching poverty among women and the violence to which they are victims. During discussions between women's groups and ministère de la Justice authorities, attention was brought to deficiencies in the judicial processing of files concerning domestic violence and sexual assault in administrative, criminal, family and civil law matters. These issues, which appeared to concern all representatives involved in preparing the March, forced the Québec government to examine them more closely.

On October 12, 2000, Linda Goupil, then Minister of Justice, Attorney General of Québec and Minister responsible for the Status of Women, announced that a committee would be set up, chaired by the ministère de la Justice and including a representative of the Bureau d'aide aux victimes d'actes criminels (BAVAC), a representative from the Secrétariat à la condition féminine, representatives from the ministère de la Justice, a representative from the ministère de la Sécurité publique and representatives of women's groups specialized in matters of violence against women,¹⁸ including the Regroupement provincial des maisons d'hébergement et de transition pour femmes victimes de violence conjugale, the Fédération de ressources d'hébergement pour femmes violentées et en difficulté du Québec, L'R des centres de Femmes du Québec, the Association des Femmes Autochtones du Québec and the Regroupement des Centres d'aide et de lutte contre les agressions à caractère sexuel (CALACS).

The Committee's mandate was essentially to improve the judicial processing of files concerning violence against women in order to facilitate referral to the court—an objective it strived to attain by promoting discussions between women's groups, the ministère de la Justice and the ministère de la Sécurité publique. To fulfil its mandate, the Committee decided to draft a report proposing recommendations. The Committee held 21 meetings during which it addressed the following themes: the training and role of police officers as well as of Attorney General's prosecutors, both in matters of domestic violence and sexual assault. It should be noted that

¹⁸ In this text, the expression "resources specialized in violence against women" will be used to designate the women's groups which offer support services directly to women who are victims of domestic violence or sexual assault and, at the same time, work to lower the incidence of occurrence. As these groups work closely with the victims, they have a good grasp of the victims' needs. This valuable information enables them to assume the role of observer as regards the response of different legal workers to the victims' needs and the acknowledgement of the rights of battered women. They can thereby instruct the professionals and play an advisory role vis-à-vis different authorities. In addition, their nation-wide associations enable them to ensure the collective defense of battered women's rights and to provide government authorities with opinions. The resources specialized in violence against women thus fulfil a three-point mission: direct support, the individual and collective defense of rights, and an advisory role.

Report of the Comité tripartite Femmes-Justice (Women and justice tripartite committee)

some meetings were specifically devoted to these matters in the context of Native communities.

A number of persons were invited to take part in these meetings, including representatives of the École nationale de police du Québec, colleges offering police training, police forces, including the Sûreté du Québec, the Service de police de la Ville de Québec, the Service de police de la Ville de Montréal, the Association des directeurs de police du Québec, chief prosecutors, assistant chief prosecutors and Attorney General's prosecutors. The chair and members of Quebec Native Women Inc., the president of the Association des chefs de police des Premières nations du Québec and a representative of the Secrétariat aux affaires autochtones also participated in certain meetings devoted to the situation in Native communities.

The meetings enabled participants to freely express themselves, with respect to working papers prepared by women's groups' representatives which covered the various problems in matters of domestic violence and sexual assault. The women's groups proposed recommendations to the Committee aimed at the training and role of police officers and of Attorney General's prosecutors.

THE PRINCIPLES THAT GUIDED THE COMMITTEE'S WORK

It is essential that, in matters of domestic violence and sexual assault, the justice system pursue three major objectives: criminalize gestures of violence, ensure the safety of victims and strengthen both victims' and the public's confidence in the administration of justice.

The values and principles on which the Committee based its action need to be reaffirmed. In the *Orientations gouvernementales en matière d'agression sexuelle* (government policies on sexual assault) and in the *Politique d'intervention en matière de violence conjugale* (domestic violence response policy) the Québec government sets out a certain number of guiding principles which must be applied to the actions taken by all persons involved in the battle against diverse forms of violence against women.

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

Government policies in matters of sexual assault	Domestic violence response policy
<ul style="list-style-type: none"> ▪ All persons are entitled to have their physical and psychological integrity respected. ▪ The protection and safety of persons must be ensured in all environments, whether private or public. ▪ Sexual assault is an unacceptable social problem; society must denounce and condemn it. ▪ Sexual assault is an exercise of power and domination of one person over another. ▪ Sexual assault is a serious crime against the person, which must be punished by the legal system. ▪ The elimination of sexual assault can be accomplished only through relations of equality between the sexes, collective and individual accountability and by persons adopting a responsible and respectful conduct in their social environment and, particularly, by adults adopting such conduct toward children. ▪ Persons who are victims of sexual assault have the right to expect respect and empathy from all interveners. ▪ Persons who are victims of sexual assault must be able to regain control of their lives. ▪ Actions taken with sex offenders must be aimed at making them recognize and assume their responsibility for the criminal assaults and at preventing them from reoffending. 	<ul style="list-style-type: none"> ▪ Society must reject and denounce all forms of violence. ▪ Society must promote the respect of persons and their differences. ▪ The elimination of domestic violence requires first and foremost relations of equality between the sexes. ▪ Domestic violence is a crime. ▪ Domestic violence is a means chosen to dominate another person and to affirm one's power over the person. ▪ In any intervention, priority must be placed on the safety and protection of women and children. ▪ Any response directed at victims must be founded on the respect of their autonomy and on their capability to regain control of their lives. ▪ Any intervention must take into account the effects of domestic violence on children and strive to mitigate them. ▪ Offenders are responsible for their violent behaviour; the response must focus on making them acknowledge and assume responsibility for their violent behaviour.

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

It is important to recall that the two documents, *Orientations gouvernementales en matière d'agression sexuelle* and *Politique d'intervention en matière de violence conjugale*, also outline the conditions essential to ensuring that the actions taken result in the desired outcome. They are:

Government policies on sexual assault	Domestic violence response policy
<ul style="list-style-type: none"> ▪ Joint action by inter-sectoral partners in different response networks. ▪ The coordination of support and protection services offered to the victims and of supervision services for offenders. ▪ The adequate training of managers and staff of all the networks involved. ▪ The search for information systems, and their evaluation and development. 	<ul style="list-style-type: none"> ▪ The coordination of services. ▪ Joint action by partners active in different sectors of intervention. ▪ The adequate training of managers and staff of all the sectors concerned. ▪ The search for services and programs and the systemic evaluation of them.

The response to sexual assault and domestic violence falls within the broader battle for the respect of basic rights already enshrined in:

The Canadian Charter of Rights and Freedoms:

- Everyone has the right to life, liberty and security of the person (section 7);
- Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability (subsection 15 (1));

and in the Québec Charter of Human Rights and Freedoms:

- Every human being has a right to life, and to personal security, inviolability

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

and freedom. He also possesses juridical personality (section 1);

- Every person has a right to full and equal recognition and exercise of his human rights and freedoms, without distinction, exclusion or preference based on race, colour, sex, sexual orientation, civil status, religion, political convictions, language, ethnic or national origin, social condition or the fact that he is a handicapped person or that he uses any means to palliate his handicap. Discrimination exists where such a distinction, exclusion or preference has the effect of nullifying or impairing such right (section 10).

The United Nations recognizes that violence against women constitutes discrimination and adversely affects access to equality between men and women. Canada is a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the International Convention on Economic, Social and Cultural Rights. For that matter, Québec ratified these agreements which reaffirm equality between men and women and binds the signatory states to pursue means to ensure women the exercise of their rights in full equality (CEDAW, Articles 1 to 6 and Convention, Part II, Art. 2).

THE FINDINGS

These findings are based on observations made by participants during various meetings of the Committee. It is important to note that the general findings presented below also apply to matters concerning Native persons. Since life in Native communities is set in a particular context, the Committee provided specific findings in order to take this context into account.

- Domestic violence and sexual assault are phenomena that attack victims in their intimacy and often occur in a context in which the victim knows the aggressor. Victims often also fear for their lives and for their children's lives.
- The exceptional nature of this type of assault creates special needs with respect to victim support and safety, and also gives rise to additional challenges for police officers and Attorney General's prosecutors.
- The evidence available for the purpose of criminal prosecution in cases of domestic violence and sexual assault is often dependent on the degree of cooperation that the victim is able to offer.
- Victims perceive the legal process in matters of domestic violence and sexual assault as being complex.
- Legal actions are facilitated when the victims of domestic violence or sexual assault are accompanied through the process.
- In the case of women who present one or more characteristics that give rise to prejudice and double discrimination, the problem of violence is all that more difficult for them and leads to more serious consequences. Such is the case for immigrant women, female refugees, women from minority cultural and ethnic communities, women with a physical or mental disability, and lesbians.
- The criteria respecting requests for access to the personal files of victims of domestic violence and sexual assault are not sufficiently regulated.
- Victims of domestic violence and sexual assault are fearful and insecure when faced with instituting proceedings and their consequences.

Report of the Comité tripartite Femmes-Justice (Women and justice tripartite committee)

- To effectively judicialize domestic violence and sexual assault, the cooperation of the other sectors is required: health care system, social services, youth protection, community-based agencies, etc.
- The role of the different police forces, the Attorney General's prosecutors and the various aid resources should be complementary but the realities they face can at times be very different and adversely this.
- Inadequate use is made of expertise available through resources specialized in matters concerning violence against women.
- A number of police forces are lacking services specialized in matters of domestic violence and sexual assault.
- The basic training and professional development provided to police officers and Attorney General's prosecutors do not adequately address domestic violence and sexual assault.
- The police forces and the Attorney General's prosecutors are sometimes not aware of the existing policies and guidelines prepared for them on domestic violence and sexual assault.
- The different police forces and Attorney General's prosecutors do not provide victims of domestic violence or sexual assault with sufficient information on the police investigation and the legal process.
- The *Police Practices Guide* fails to adequately address domestic violence and sexual assault.
- The ministère de la Justice has no reliable system for compiling detailed statistics on domestic violence.
- There is no specific tool, within the legal process, with which to evaluate a violent spouse or sex offender's potential to be dangerous.

WITH RESPECT TO NATIVE PERSONS

- The legal and judicial framework that applies to Native women makes the fight against violence against these women more complex. Native women are marginalized by the current federal law, leaving deep scars within Native communities. The women are simultaneously the object of discrimination based on various grounds, such as gender, race, culture, residence and marital

Report of the Comité tripartite Femmes-Justice (Women and justice tripartite committee)

status. They are doubly marginalized: as women within their community and as Native persons within society.

- Of the 11 Native nations in Québec, 8 have retained their mother tongue. A large majority of the residents in the isolated communities primarily speak in their mother tongue.
- Half the Native population of Québec resides in three remote regions alone: Northern-Québec, Abitibi-Témiscamingue and the North-Shore. Thirty-nine of the 55 Native communities are located in these three regions.
- The average annual income of Native women remains lower than that of their male counterparts, but also lower than the national average.
- Members of the First Nations living in communities reside in overcrowded housing. This translates into an increased risk of tension and personal conflicts, and can even be connected to domestic violence and sexual assault, suicides and homicides.
- The family—the basic social unit—has been significantly transformed over the past few decades. A number of families have been torn apart by violence, alcohol, drug dependence and various, wide-ranging types of abuse.
- A number of factors, including fear of the consequences of denouncing, fear that confidentiality will not be respected, fear of breaking the unity within the community, the fact that complaints may not be taken seriously, the inadequacy of aid resources, and economic dependence, serve to preserve the taboo nature of revealing domestic violence and sexual assault.
- Despite the fact that, in Québec, services and programs are offered to victims of criminal acts, they are not yet available in all the regions in northern Québec. In the regions where they are, the services do not take into consideration the reality that Native women confront, nor their true needs.
- Among the obstacles facing Native women are: the inadequacy of legal services, inadequate training of police officers with respect to critical situations such as domestic violence and sexual assault and a failure to enhance the officers' awareness of these issues, and the complexity of the legal process.
- Violence, in all its forms, has become endemic in Native communities and represents a serious threat to the development of Native people and to the safety, in particular, of women and children.

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

- It is sometimes difficult to ensure that domestic violence and sexual assault files are handled with impartiality because of family ties that exist between the various Native principals involved in the legal system and the offenders or the victims.
- Interference on the part of representatives of certain Native political organizations has at times been observed with respect to the persons involved in the legal system in these communities.

THE RECOMMENDATIONS

The following recommendations result from the Committee's findings. It must be pointed out that the general recommendations also apply in the context of Native matters. Since life in Native communities is set in a particular context, the Committee provided specific recommendations in order to take this context into account. The Comité tripartite Femmes-Justice thus recommends:

POLICE OFFICER TRAINING

1. Set up a harmonization committee so that:
 - Training regarding domestic violence and sexual assault offered in colleges be reviewed so as to ensure that the programs are standardized and coherent and examine the subject matter more thoroughly (ministère de l'Éducation and the ministère de la Sécurité publique via the Comité interministériel de coordination en matière de violence conjugale, familiale et sexuelle) (Interdepartmental coordination committee on domestic, family and sexual violence);
 - the courses given by the colleges and by the École nationale de police du Québec may be complementary.
2. Ensure that the content of the training programs of the École nationale de police du Québec promotes the values and principles set out in the Charters, in the *Politique d'intervention en matière de violence conjugale*, in the *Orientations gouvernementales en matière d'agression sexuelle*, in the *Police Practices Guide* and that it contains the elements set out in Appendix 1.
3. Encourage educational institutions under the ministère de l'Éducation and the ministère de la Sécurité publique to use the expertise of resources specialized in violence against women when reviewing and disseminating their programs.
4. Ask the police forces, in cooperation with the École nationale de police du Québec:
 - To ensure that patrol officers' knowledge of domestic violence and sexual assault is kept up to date;

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

- To train investigators in matters of domestic violence and sexual assault according to the training program established by the École nationale de police in these matters.

WITH RESPECT TO NATIVE PERSONS

5. Indicate clearly, in the context of tripartite agreements, that all special constables must possess at least a basic training recognized by the École nationale de police du Québec and training in matters of investigation that complement the basic training.
6. Take every means necessary, in negotiating tripartite agreements with the government, to ensure that all Native police personnel in Québec have successfully completed basic patrol officer-constable training within the next five years.
7. Appoint, in Native communities, only special constables who have obtained their special constable certification or the equivalent determined by the École nationale de police du Québec, except in particular circumstances.
8. Develop strategies and integrate into the tripartite agreements special clauses on the means and tools to better monitor the basic training and continuing education of police personnel and special constables.
9. Develop and make mandatory for all Native police personnel and special constables and the non-Native police personnel working in Native communities awareness-enhancing training on the reality confronting Native women.
10. Tailor the training of police personnel and special constables so that it more accurately reflects the personal and community realities, recognizing specific violence that exists in certain Native communities and the high percentage of victims among the Native population as a whole.
11. Give the police management course, preferably the Native police management course, to all directors and chief constables, in accordance with the *Police Act*.
12. Promote and take the necessary measures to apply the principles of employment equity to encourage the hiring of female police officers and special constables within the Native police force and Native police services.

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

POLICE INTERVENTION

13. Add to the *Police Practices Guide* a model interview with a victim of domestic violence.
14. Ensure that the investigation files pertaining to domestic violence are systematically examined to make sure that the evidence is complete.
15. Clearly reaffirm in the *Police Practices Guide*, in the evidence kit manual of use and in all the other pertinent police directives the right of each victim:
 - To either lay a charge or not lay a charge, following a sexual assault;
 - To receive all medical care pertinent to the victim's condition;
 - To decide that the evidence kit or medical-social kit be used or not;
 - To take advantage, if so desired, of the 14-day period allowed before authorizing the kit to be given to the police force;
 - To have access to an aid resource, if so desired, to help the victim make a decision.
16. Ensure that the ministère de la Santé et des Services sociaux and the ministère de la Sécurité publique use the expertise of the resources specialized in violence against women, such as the CALACS, when determining the contents of training for medical and police personnel responsible for informing victims of the evidence kit.
17. Enable victims to be accompanied by the person of their choice during a police intervention, barring exceptional circumstances likely to jeopardize the investigation.
18. Conduct pertinent, mandatory verifications in all cases where it is alleged that a condition of release has not been satisfied and quickly submit a report to the Attorney General's prosecutor.
19. Introduce a simple, safe and accessible mechanism enabling victims who have changed address since filing their complaint to inform themselves of the file concerning them.
20. Update the *Police Practices Guide* so that police officers are required to inform the victim as soon as possible when the arrest of the offender occurs after the

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

complaint has been filed and there was no police intervention at the time of the offence.

21. Ensure that the persons delegated to sit on the various round tables are not only interested in the issue but also possess authority and the necessary resources in the organization they represent.
22. Promote memorandums of understanding on domestic violence.
23. Ensure that a list is made of the police force protocols and that the implementation and results of the protocols are assessed.
24. Ask the Service général d'inspection of the ministère de la Sécurité publique to develop, as a priority, verification tools to ensure the training of the police personnel and the respect of police practices in matters of domestic violence and sexual assault, while taking into account the concerns of all the victim aid resources, particularly the CALACSSs, the CAVACs, the shelters and the representatives of Quebec Native Women Inc.
25. Take appropriate measures so that the victims who had to leave their residences may be accompanied by a police officer in order collect their personal belongings.
26. Make more readily accessible information to all victims wanting to file a complaint against a police officer on their rights and the recourse available to them. Such information should include, in particular, the role of the Commissaire à la déontologie policière (police ethics commissioner).
27. Ask the police forces to encourage the setting up of services specialized in domestic violence and sexual assault matters, while drawing on practices proven to be effective (see Appendix 2).
28. Stipulate, in the *Police Practices Guide*, that the police forces may not request access to the personal file of a victim of domestic violence or sexual assault without the prior consent of an Attorney General's prosecutor.

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

WITH RESPECT TO NATIVE PERSONS

29. Ensure that the Native police personnel and special constables comply with the *Police Practices Guide* with respect to matters of domestic violence and sexual assault.
30. Allocate human, physical and material resources sufficient to ensure levels of police services that are adequate and to which all communities have access.
31. Ensure compliance with the tripartite agreements with respect to the setting up and continued existence of public safety committees.
32. Ensure that an independent agency, such as the First Nation Chiefs of Police Association of Québec, has access to every means possible to make it easier to establish public safety committees, offer the necessary training, define the committees' role and carry out a follow up of them.
33. Establish, for all Native nations, investigative services having Native investigators who are trained in conformity with the legislation in force and who benefit from specific training in domestic violence and sexual assault according to the program established by the École nationale de police du Québec.
34. Clearly indicate in the tripartite agreements that, should there not be an investigator on the Native police force or police service, a memorandum of understanding with another police force must be implemented in order that the latter may conduct the investigations.
35. Encourage the reorganization of the Native police force's territory by promoting the introduction of a regionalized police force network in order to avoid any form of interference by the communities.
36. Add to the *Police Practices Guide* a culturally adapted model of a guide for interviewing victims and, as required, have it translated into the appropriate Native tongue.
37. Stipulate, under the tripartite agreements, that an acting special constable always be accompanied by a member of the police staff or a duly trained special constable when the acting special constable responds to domestic violence or sexual assault.

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

38. Rigorously complete the incident reports on domestic violence or sexual assault and (ensure) that the victim aid resources have access to this information, after having obtained the victims' consent.
39. Require that each Native police force or service that does not have a computer link with the Quebec Police Information Centre (QPIC) prepare and maintain a record of all cases of domestic violence and sexual assault and ensure that the police force or service systematically has these cases registered with the QPIC.
40. Invest the resources needed to promote the mandate of the Commissaire à la déontologie policière (police ethics commissioner), the commissioner's powers and responsibilities toward the Native peoples, particularly to receive and examine complaints made by any person against a police officer or a special constable.
41. Favour the development of memorandums of understanding, within tripartite agreements, with all local persons working in the field of domestic violence and sexual assault.
42. Stipulate, in the context of a domestic violence or sexual assault case, that the Native police personnel communicate beforehand with the Attorney General's prosecutors before releasing an offender and, as necessary, require that the personnel inform the victim of the offender's discharge and explain the release conditions.
43. Include the *Politique sur les critères d'embauche des policiers et des constables spéciaux* (policy on police officer and special constable hiring criteria) in the tripartite agreements and ensure that the policy is respected and complies with the laws in force.

TRAINING OF ATTORNEY GENERAL'S PROSECUTORS

44. Develop and offer a special training program to all new Attorney General's prosecutors called to act in matters of domestic violence and sexual assault.
45. Ensure that the Attorney General's prosecutors who are involved in such cases are kept up to date on all aspects of them.
46. Make certain that the content of the aforementioned training programs promotes the values and principles set out in the Charters, in the *Politique d'intervention en matière de violence conjugale*, in the *Orientations*

Report of the Comité tripartite Femmes-Justice (Women and justice tripartite committee)

gouvernementales en matière d'agression sexuelle and satisfies all the requirements and meets all the criteria set out in Appendix 1.

47. Encourage the ministère de la Justice to draw on the expertise of resources specialized in matters of violence against women when reviewing and making these programs available.

WITH RESPECT TO NATIVE PERSONS

48. Specifically for the judges, the Attorney General's prosecutors and all legal workers who work with Native persons, hold awareness-generating sessions on the realities confronting Native persons, notably with respect to the issues surrounding offences against the person in Native communities.
49. Promote mentoring of newly appointed Attorney General's prosecutors working in Native communities.

ROLE OF THE ATTORNEY GENERAL'S PROSECUTORS

50. Issue a directive on sexual assault so that, barring exceptional circumstances, the Attorney General's prosecutors:
 - meet the victim as soon as possible after they receive the police investigation report;
 - ensure that the victim is informed of the legal process and encourage the victim to actively take part in it (see Appendix 3).
51. Issue a directive on domestic violence so that, barring exceptional circumstances, the Attorney General's prosecutors:
 - communicate with the victim as soon as possible after they receive the police investigation report;
 - meet the victim at the earliest opportunity, ensure that he or she is informed of the legal process and encourage the victim to take part in the process (see Appendix 3).
52. Make certain, in view of the significant number of domestic violence cases, that at the Montréal Court House a support service working in collaboration with the Attorney General's prosecutors:

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

- communicates with the victim and meets him or her as soon as procedures begin;
 - informs the victim of the legal process and encourages him or her to actively take part in it.
53. Enable the victim to be accompanied throughout the legal process by the person of his or her choice, other than in the case of exceptional circumstances likely to put the victim's safety at risk.
 54. Review Directive No. ACC-5, addressed to Attorney General's prosecutors, so that the following elements in particular are taken into account: the dynamic of violence as it applies to the offender, the fact that violence is exercised against a person in the offender's close circle of friends and relatives and also to take the context of intimidation into consideration (see Appendix 4).
 55. Make the necessary arrangements to ensure that the Attorney General's prosecutors provide the victim with pertinent information on their decision to not authorize criminal proceedings.
 56. Take all necessary measures to word the conditions of release in a way that does not lend itself to interpretation and ensure that the victim is quickly informed of the conditions.
 57. Review Directive No. PLA-1, addressed to Attorney General's prosecutors, so that the victim is consulted, within an adequate period of time, about the possibility of concluding plea bargaining and is provided with an explanation of the grounds for doing so (see Appendix 5).
 58. Ensure that the funding required to secure the services of needed experts is available in all the cases where it could prove pertinent to have recourse to an expert.
 59. Implement the commitments set out in the *Declaration of Services Available to Citizens of the ministère de la Justice* which concern the victims, whether in the context of court houses or service points (see Appendix 6).
 60. Introduce a mechanism that permits victims who are notified by a request to access their personal file, to benefit from the services of an advocate duly trained and remunerated by the State.
 61. Inform the victim of domestic violence or sexual assault of the use that will be made of the *Déclaration de la victime sur les conséquences du crime* (victim

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

impact statement) and ensure that a support service is made available to the victim to assist in preparing the statement.

62. Establish a procedure making it possible for the *Déclaration de la victime sur les conséquences du crime* (victim impact statement) to be placed in the file when an accused person has been found guilty.
63. Update the *Politiques de poursuite et directives du procureur général* (Attorney General's prosecution policy and directives) so that the Attorney General's prosecutor is responsible for a case, from the beginning to the end of proceedings, without exception.
64. Take measures so that the victim may be referred to the chief prosecutor when the victim does not agree with the decision of the Attorney General's prosecutor responsible for his or her file to not institute legal proceedings.
65. Develop and introduce the use of a tool enabling the ministère de la Justice, in matters of domestic violence, to compile various statistics, particularly on the delays incurred, the number of complaints received and the percentage of authorized complaints, the number of victims, the characteristics of the offence, the percentage of convictions and the sentences passed.
66. Publish an annual report addressing the statistics collected on domestic violence and sexual assault.

WITH RESPECT TO NATIVE PERSONS

67. Ensure, in light of the cultural and geographic context, that Native victims may, throughout the legal process, receive general information in their language of use on the legal process and on the status of their files.
68. Take the necessary measures to ensure that, during the Attorney General's prosecutor's meetings with the victim, information given to the victim is explained in plain language and also ensure, according to the availability of resources, the pertinence of resorting to interpretation services to facilitate communication.
69. Ensure, in the absence of victim aid services, that the Attorney General's prosecutor provides the Native person who is the victim of domestic violence or sexual assault with adequate information on his or her rights and choice of recourse.

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

70. Ensure that the Attorney General's prosecutor, taking into account the importance of the victim's testimony in the context of a crime against the person, adequately prepares the victim for cross-examination.
71. See to it that the interim release forms are standardized and translated into the Native tongue, as required.
72. Take the necessary measures in order that the Attorney General's prosecutors ensure that the conditions of release are systematically transmitted to the Native police personnel in charge of the file or to the police service's liaison officer, as well as to any other agency involved with victims.
73. Provide for the identification of Native offenders and victims in developing or introducing any system permitting the compilation of statistics.
74. Ensure the presence of an additional Attorney General's prosecutor designated to accompany his or her colleague before itinerant courts, given the large number of cases and the little time available to meet the victims and the witnesses.

SAFETY OF THE VICTIM

75. Assess the pertinence of submitting a request to file a preferred indictment when the safety of a victim so justifies, in accordance with Directive No. ACC-2 of the *Politiques de poursuite et directives du procureur général* (see Appendix 7).
76. Develop specific risk evaluation tools and introduce means making it possible to collect all pertinent information, particularly from the victim, in order to better evaluate the extent to which the violent spouse or sexual offender represents a danger (ministère de la Justice and ministère de la Sécurité publique).
77. Ensure, throughout the legal process, that particular attention is given to taking into account the safety of victims who know their aggressor, as is the case in domestic violence and in many cases of sexual assault.
78. Take all the measures necessary to ensure that the police personnel and the Attorney General's prosecutors have all relevant information needed to ensure the safety of victims.
79. Seek the collaboration of researchers and resources specialized in matters of domestic violence and sexual assault to head research in order to develop a

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

better evaluation of the potential for a violent spouse or a sexual offender to be dangerous and what this can represent for the safety of the victim, his or her relations, or of other women, at every stage of the legal and detention process (ministère de la Sécurité publique).

80. Make the necessary arrangements so that the Attorney General's prosecutors recommend that firearms be seized and confiscated in all cases where required or authorized by law, at every stage of the legal process.

WITH RESPECT TO NATIVE PERSONS

81. With respect to offenders having been the object of a court order to restrict the possession of their firearms to subsistence purposes only, consider requiring that the arms be left at the police station or other safe location while ensuring that they are accessible for that purpose only.
82. Provide separate transportation for Native victims and offenders where the case is assigned to a court outside of their community.
83. Make available waiting areas reserved for use by victims only in police stations, court houses and any other place where meetings with legal professionals are held.
84. Make provisions for a legal professional to explain to the offender and to the victim, separately, the conditions of release fixed by a judge and provide for an interpreter or courtworker to systematically translate the explanations while ensuring that they are well understood.

OTHER RECOMMENDATIONS

85. Ensure that all victims of domestic violence and sexual assault have access to the INFOVAC-PLUS program.
86. Pay particular attention, in the framework of the current review of the INFOVAC-PLUS program, to victims who, for their own safety, must change address, so that they receive all information available, including information on the *Programme de déclaration de la victime sur les conséquences du crime* (victim impact statement program).

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

87. Ensure that victims of domestic violence and sexual assault have access to a range of support services, institutional or community-based, so that they may benefit from ongoing assistance (see Appendix 8).
88. Clarify, in a guide prepared in collaboration with the aid resources, the role and limits of the actions taken by the person who accompanies the victim.

OTHER RECOMMENDATIONS IN NATIVE MATTERS

89. Develop various sources of information to respond to victims' concerns regarding their rights and the legal system, for example, by setting up a 1-800 telephone line, by publishing short articles or by preparing videocassettes.
90. Establish itinerant courts in the Native communities where such a court is required and requested.
91. Ensure that legal interpreters do not act as an interpreter for one of the parties during meetings that are held outside the framework of the hearing.
92. Put together a bank of legal interpreters for the Native nations as a whole, set up training sessions in legal interpretation and ensure the monitoring and certification of Native interpreters already in place, in accordance with the established standards.
93. Ensure that Native persons in general, and Native women and children in particular, as well as their relatives, may have access to victim support services in all the regions of Québec and see to it that these services are adequately funded.
94. Hire, in certain CLSCs, CAVACs, CALACS or shelters located in regions with a significant Native population, a Native counsellor and, where the Native population is lesser, assign responsibility for this clientele to a non-Native counsellor who has been given sessions to enhance his or her awareness of the realities confronting Native persons.
95. Ensure that the agencies targeted in the preceding recommendation promote their services among the Native population.
96. Conduct a study on setting up treatment centres for violent Native men and services for offenders.

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

97. Consult the Native Women of Québec with regard to implementing the recommendations made in this report.

APPENDIX 1

TRAINING FOR POLICE OFFICERS AND ATTORNEY GENERAL'S PROSECUTORS

The training given police officers and Attorney General's prosecutors should lead to:

- a better knowledge of the aspects and issues of domestic violence and sexual assault;
- the development of appropriate attitudes;
- the development of concrete tools;
- heightened vigilance against myths and prejudices;
- a greater sense of being able to take effective action.

The training should address:

- the origin and definition of sexual assault, how it is related to other forms of violence against women and how legislation has evolved;
- the cycle of domestic violence, the dynamic of violence as a whole and the reality confronting female victims;
- the myths and prejudices;
- the discriminatory nature of domestic violence and sexual assault and the consequences that they have on their victims, and on their victims' needs and rights;
- the particular needs of female victims who are also the object of double discrimination;
- the existence and use of applicable protocols;

Report of the Comité tripartite Femmes-Justice (Women and justice tripartite committee)

- the impact of police officers not intervening;
- the role of "first responder" to domestic violence and sexual assault (for police officers);
- the attitudes that need to be adopted when responding to sexual assault or domestic violence;
- the type of conduct to avoid so as to not further victimize women and to avoid discriminatory behaviour;
- the particular issues and difficulties encountered by police officers and by the Attorney General's prosecutors (for example, the fact that the victims know their aggressor, the contradictory feelings, the victims who are afraid, the confusion following the assault, the fact of intervening a number of times with the same person);
- the importance of systematically referring victims of domestic violence and sexual assault to support services;
- practical cases which depict the reality of victims who hesitate to file a complaint and are afraid to collaborate.

APPENDIX 2

**POLICE SERVICES SPECIALIZED IN MATTERS OF DOMESTIC VIOLENCE
AND SEXUAL ASSAULT**

The establishment of services specialized in matters of domestic violence and sexual assault should be founded on recognized effective practices, namely:

A) selecting police officers who have:

- particular skills;
- a specific interest in developing expertise in these fields;
- an interest in developing intervention skills specific to these social problems.

B) offering them continued training, such as:

- the sharing of knowledge of experienced investigators with newly appointed police officers;
- discussions among investigators;
- group meetings.

APPENDIX 3

INFORMING THE VICTIM ON THE LEGAL PROCESS

The Attorney General's prosecutors must ensure that the victims receive information,¹⁹ as soon as proceedings get under way and throughout the legal process, on:

- the importance of legal action and the goal of legal proceedings;
- the legal proceedings to come and the timeframes;
- the charges laid;
- plea bargaining or sentence negotiations;
- the role of the victim as a key witness;
- the role of each concerned party;
- all support resources;

And specifically with regard to Native matters, information on:

- the reimbursement of travel costs and child care expenses for victims living in remote regions.
- This information must be clear, accessible and adapted to the context.

¹⁹ This information can be given by the Attorney General's prosecutor or by another authority mandated to do so.

APPENDIX 4

**DIRECTIVE N° ACC-5 – ACCUSATION (CHARGE) - INFRACTIONS HYBRIDES
(ALTERNATE OFFENCES)**

1. **[Choice between two types of proceedings]** – Where an offence may, at the prosecutor's preference, be prosecuted by summary conviction or by indictment, the prosecutor first considers the possibility of proceeding by summary conviction, unless an indictment is more appropriate, given the circumstances of the case.

In examining the circumstances of the case, the prosecutor takes into consideration:

- a) the fact that the accused openly professes to be a member or sympathizer of a criminal organization or of a group that partakes in physical violence or uses intimidation, or that the accused bears the organization or group's distinguishing marks in public;
 - b) the fact that the accused person is a gang member within the meaning of section 2 of the Criminal Code.
2. **[Idem]** – Should the period of limitation of an offence expire, this shall not constitute an impediment to proceed by indictment. The prosecutor considering proceeding in this manner takes a number of elements into account, particularly:
- a) the seriousness of the offence;
 - b) the accused person's previous offences;
 - c) where the prosecutor is not responsible for the delay incurred and what was done to avoid it.

APPENDIX 5

DIRECTIVE N° PLA-1 - NÉGOCIATION DE PLAIDOYER (PLEA BARGAINING)

1. **[Responsibility of the prosecutor]** – The Attorney General's prosecutor is responsible for plea bargaining and the resulting decision.
2. **[Parties taking part in the bargaining]** – Plea bargaining by the prosecutor is subject to the following rules:
 - a) the judge may not take part in the negotiations, or be informed of the terms of the negotiations before the hearing takes place;
 - b) when the accused is represented by a lawyer, the lawyer must take part in the negotiations;
 - c) when the accused is not represented by a lawyer, the prosecutor must:
 - i) remind the accused of his or her right to be represented and provide information on the legal aid services available;
 - ii) ensure that the accused's decision to not be represented is clearly expressed;
 - iii) abstain from negotiating with the accused if, in the prosecutor's opinion, the accused cannot provide well-informed consent.
 - d) When the accused is under 18 years of age, the prosecutor must:
 - i) abstain from negotiating with the accused if he or she is not represented by a lawyer;

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

- ii) if the accused is represented by a lawyer, take into account, in the negotiations, of the particular aspects and context of the Young Offender's Act, particularly principles set out in section 3 of the Act.
- 3. **[Consultation of the investigator]** – In cases of serious offences against the person, or where the circumstances of the offence are such that the safety of the victim may be compromised, the prosecutor must, before concluding plea bargaining and if the circumstances so permit, consult the peace officer in charge of the investigation.
- 4. **[Notice to the chief prosecutor]** – In the case of offences resulting in death, before coming to an agreement with the defence to enter a plea of guilty to a different offence, the prosecutor must notify the chief prosecutor of this.
- 5. **[Notice to the victim]** – After concluding an agreement with the accused person who wishes to plead guilty, the prosecutor must, in the case of the offences identified above in paragraph 3 and if circumstances so permit, provide the victim, or if the victim is deceased, a relative of the victim, with the following information:
 - a) the accused's intention to plead guilty;
 - b) the date scheduled for entering the plea;
 - c) the date scheduled for sentencing and, where applicable;
 - d) the grounds justifying a reduction in or replacement of the charge.
- 6. **[The evidence]** – The prosecutor may agree to entering a plea of guilty to an offence only if the offence is disclosed by the evidence.
- 7. **[Entering a plea]** – When entering a plea of guilty, following an agreement concluded between the defence and the prosecutor, the prosecutor must:

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

- A) convey the following information to the court:
 - a) where the accused is not represented, the accused received a reminder concerning his or her right to legal counsel;
 - b) the nature of the agreement reached, the reasons for it and the circumstances of it. However, under exceptional circumstances, the prosecutor may depart from this rule and, if deemed appropriate, may request the judge's permission to reveal this information at the exclusion of public, or in a written document addressed to the court;
 - c) the reminder made to the accused person of his or her right to be heard and to freely decide whether or not to agree to do so.
- B) favour recourse to section 606 (4) of the Criminal Code.
- C) where the accused wishes to plead guilty in a number of separate files, give preference, if possible, to having all the pleas entered before the same judge so as to preserve the principle of full time with respect to the sentences and their concurrency.

COMMENTS

This directive stems from the commitment made by the Attorney General during the Sommet de la Justice held on February 20, 1992, to follow up on the recommendations made by the Groupe de travail sur l'administration de la justice en matière criminelle (working group on the administration of justice in criminal matters) (Rapport Guérin, December 16, 1991) and to improve the framework within which prosecutors may exercise discretion in accepting an accused's plea of guilty in exchange for a reduced charge or an agreement on the sentence to be imposed.

In response to another recommendation of the Groupe de travail sur l'administration de la justice en matière criminelle, and to complete this directive, the chief prosecutors must, on April 1 of each year, provide the Associate Deputy Minister with a report of all cases falling under paragraph 4 (P.-V. No 92-07, p. 12).

APPENDIX 6

**EXTRACT FROM THE DECLARATION OF SERVICES AVAILABLE TO
CITIZENS WITH RESPECT TO THE COMMITMENTS OF THE MINISTÈRE DE
LA JUSTICE TOWARD CRIME VICTIMS**

More particularly, if you are a victim of criminal acts, our objectives are the following:

- to provide you with pertinent information regarding the legal process as well as information regarding your rights and recourses;
- to quickly provide you with the name of the person in charge of your court case and indicate how to contact that person;
- to inform you of support and guidance services available in your area;
- to forward to you, ten days before the accused is scheduled to appear in court, a form in which you may state, for the court, how the crime has affected you and your life;
- during the hearing, to provide you with access to a room where you may wait, without having to be in the presence of the accused, until it is time for you to testify;
- to take measures to allow children, when circumstances require it and when the court authorizes it, to testify without having to be in the presence of the accused;
- to inform you of decisions that involve you during the course of the proceedings;
- to inform you of the release of the accused, of the conditions imposed by the court and of any changes to these conditions during the course of the proceedings.

APPENDIX 7

DIRECTIVE N° ACC-2 - ACCUSATION (CHARGE) - ACTE D'ACCUSATION PRIVILÉGIÉ ET NOUVELLE DÉNONCIATION (PREFERRED INDICTMENT AND NEW INFORMATION)

1. **[Exceptional measures]** – Where, under section 577 or 485.1 of the Criminal Code, where a preferred indictment and laying new information are preferred, this constitutes an exceptional measure.
2. **[Criteria]** – The criteria for applying the measures identified above in paragraph 1 are:
 - A) for a preferred indictment:
 - a) where it is the most appropriate means, given the circumstances of the case;
 - b) to avoid multiple proceedings;
 - c) to avoid unnecessary and unjustifiable delays whereas the interests of the public necessitate a quick hearing;
 - d) to ensure the protection of the prosecution's witnesses.
 - B) For the new information:
 - a) the victim or another person may have been wronged by the court releasing the accused;
 - b) to ensure that the motion for consent to the laying of the new information be filed as soon as possible after the release of the accused.

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

3. **[Procedure]** – The procedure for applying the measures set out in paragraph 1 consists of:
- A) for the preferred indictment:
 - a) the prosecutor submits the motion to the chief prosecutor for verification, decision and forwarding to the Assistant Deputy Minister, as applicable;
 - b) the prosecutor includes with the motion:
 - i) the grounds, in detail and in fact and in law, which authorize and justify recourse to the measure,
 - ii) the information relevant to the case,
 - iii) the original copy of the indictment for which consent is required.
 - B) for the new information:
 - a) the prosecutor submits the motion to the chief prosecutor for verification, decision and forwarding to the Associate Deputy Minister, as applicable;
 - b) the prosecutor includes with the motion:
 - i) the case background, outlining each stage of the judicial proceedings,
 - ii) the reasons given by the judge for granting the release of the accused,
 - iii) the grounds in fact and in law which authorize and justify laying the new information,
 - iv) the original copy of the new information for which consent is required.

APPENDIX 8

VICTIM SUPPORT SERVICES

The agencies involved in the delivery of services must meet the following requirements:

- provide the female victim with information on the judicial process referred to in Appendix 3;
- provide referral and access to resources able to meet the diverse, multiple needs of female victims;
- psychosocial support and crisis situation intervention;
- guidance throughout the various phases of the judicial process;
- assistance preparing the victim's impact statement.

Efficiently organized services require that a number of conditions be met, including:

- rapid response after the incident;
- continuity in the delivery of services;
- recognition of the unique needs of female victims of domestic violence and sexual assault;
- collaboration, joint action and consistency among the agencies offering these services;
- knowledge and recognition of the role that each of the institutional or community-based resources plays, whether associated with the Justice network or with the network of the ministère de la Santé et des Services sociaux;

**Report of the Comité tripartite Femmes-Justice
(Women and justice tripartite committee)**

- the introduction of effective mechanisms for communication (and the exchange of information) between the parties concerned, both at the sectoral (Justice) and intersectoral level.