

Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress

Joint Final Presentation

Grand Council of the Crees (Eeyou Istchee) /

Cree Nation Government

Cree Board of Health and Social Services of James Bay

Val-d'Or, Quebec

December 14, 2018



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Thanks

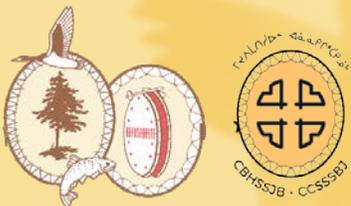
Before we start this, our final presentation to the Commission, the Cree Nation wishes to **express our thanks**:

- To the **Anishnabe Nation**, on whose land we meet, and whose members had the courage to come forward with the stories that gave rise to this Commission of Inquiry;
- To the many **Indigenous witnesses, women, men, elders and youth**, who have had the courage to share their often painful stories with the Commission in order to make things better for future generations;



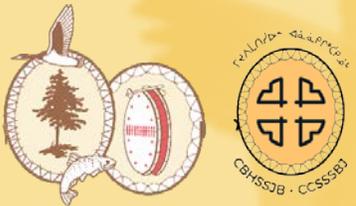
Thanks

- To **Commissioner Jacques Viens and all his team at the Commission**, lawyers, investigators, liaison agents, administrative and technical staff, for their diligence, efficiency, integrity and, above all, for their respect, sensitivity and compassion for the Indigenous witnesses. By listening to their stories, the Commissioner and his colleagues have helped to restore their dignity to Indigenous women and men who have never been listened to before;
- To the many **public servants** who work, often under difficult conditions and without much recognition, with and for Indigenous peoples;
- To those **police officers** who honour their oath to “serve and protect” all citizens, Indigenous and non-Indigenous alike.



Introduction

- This is the joint final presentation of the Grand Council of the Crees (Eeyou Istchee)/Cree Nation Government (“**GCC(EI)/CNG**”) and of the Cree Board of Health and Social Services of James Bay (“**CBHSSJB**”) to the Public Inquiry Commission on Relations between Indigenous People and Certain Public Services in Québec: Listening, Reconciliation and Progress (“**CERP**” or “**Commission**”).
- This presentation summarizes some of the main findings and recommendations of the final joint Brief of the GCC(EI)/CNG and CBHSSJB, filed with the Commission on November 30, 2018 (“**Joint Brief**”).
- The GCC(EI)/CNG and CBHSSJB reiterate all the statements, observations and recommendations set out in their written and oral submissions to date, listed in **Schedules B, C and D** of the Joint Brief.



Recommendations*

A. Police and Justice

1. End the criminalization of homeless Indigenous persons
2. Attack the problem of Indigenous homelessness at source by attacking the housing crisis in the Indigenous communities
3. Improve the coordination of police with health and social services
4. Change the model of police services from repression to building relationships with Indigenous communities and individuals
5. End the culture of police impunity by strengthening accountability, reporting and oversight

* See Final Brief of GCC(EI)/CNG/CBHSSJB for complete list of recommendations



Recommendations

6. Acknowledge the existence of systemic racism within the Sûreté du Québec
7. Make training in Indigenous realities mandatory for police recruits and officers, as well as judges and workers in the court and corrections systems
8. Ensure stable, multi-year funding for Indigenous police forces
9. Adapt police complaints process to Indigenous reality by permitting verbal, telephone complaints, support of liaison agents
10. Expand services and shelters to combat violence against Indigenous women and sexual exploitation



Recommendations

B. Health and Social Services

11. Enhance cultural safety for Indigenous persons throughout the health and social service system
12. Involve Indigenous communities in the revision of healthcare legislation to recognize Indigenous realities and traditions
13. Support the recruitment and training of Indigenous professionals in health and social services
14. Bring specialized services, including obstetrics and dialysis, to the Indigenous communities instead of sending patients outside
15. Address language barriers for Indigenous person in the health and social service system



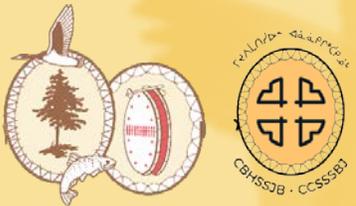
Context

- The **Commission's mandate** requires it
 - to **inquire into, to make findings of fact and to carry out analyses**
 - in order to make **recommendations**
 - concerning concrete, effective and durable **remedial actions**
 - **to be implemented** by the **Government of Québec** and by the Indigenous authorities with a view to
 - **preventing or eliminating**, whatever the origin and cause, **any form of violence, discriminatory practices or different treatment** in the provision of the following public services to the Indigenous people of Québec:
 - **police services, correctional services, justice services, health and social services as well as youth protection services.**



Context

- The Commission was born out of allegations of **discrimination and systemic racism** in the police and justice services towards Indigenous persons in Val-d'Or.
- And so this presentation **keeps the focus on police and justice services** in Val-d'Or, as the issues encountered there seem to be representative of patterns across Québec.
- Recent weeks have seen extensive media coverage of **systemic police racism** and misconduct towards Indigenous persons and other racial minorities in **Montreal, Toronto and elsewhere in Canada**.
- These reports show very **troubling parallels** with evidence of police racism in Val-d'Or and Québec heard by this Commission.



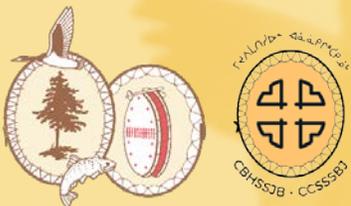
Context

- On **10 December**, the **Ontario Human Rights Commission** issued its *Interim Report into the Inquiry Concerning Racial Discrimination and Racial Profiling of Black Persons by the Toronto Police Service*.
- This report shows that **Black people are dramatically over-represented** in use of force cases (28.8%), shootings (36%), deadly encounters (61.5%) and fatal shootings (70%) by police, despite making up only 4.1% of Toronto's population,.
- Individual witnesses told the Ontario Commission, in words almost identical to those heard by this Commission from Indigenous witnesses, of their fear, trauma, humiliation, mistrust and expectations of negative treatment by police officers.
- The **Toronto Police Chief acknowledged** the existence of **profiling and racism** in the Toronto Police Service.



Context

- On **4 December**, a research report called “#MTLsansprofilage” indicated widespread, systemic, racial profiling and harassment of black youth, including some cases of violence, abuse and intimidation, by Montreal police in the Saint-Michel neighbourhood.
- On **11 December**, the SPVM released its *Strategic Action Plan to Support SPVM Personnel in the prevention of racial and social profiling, 2018-2021*.
- The Action Plan identifies ten main action items along four main axes in order to prevent racial and social profiling.
- Certain Black community groups continue to consider a legal class action against the SPVM for the racial profiling.



Context

- On **12 December**, the Ontario Independent Police Review Director issued the report ***Broken Trust – Indigenous People and the Thunder Bay Police Service*** (“TBPS”).
- Among other things, this Report
 - finds that **systemic racism exists** in the TBPS, and
 - calls for the reinvestigation of nine sudden death investigations related to Indigenous persons.



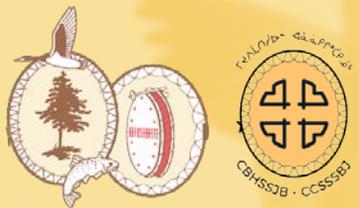
Context

- In particular, two recommendations of this Report merit special attention by this Commission:
 - **33. TBPS leadership should publicly and formally acknowledge that racism exists at all levels within the police service and it will not tolerate racist views or actions. TBPS leadership should engage with Indigenous communities on the forum for and content of these acknowledgements. This would be an important step in TBPS advancing reconciliation with Indigenous people.**
 - **34. The Thunder Bay Police Services Board should publicly and formally acknowledge racism exists within TBPS and take a leadership role in repairing the relationship between TBPS and Indigenous communities. This too, is an important step in TBPS advancing reconciliation with Indigenous people.**



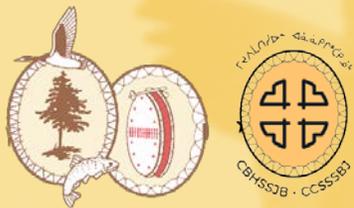
Context

- These reports, all within the space of a single week, indicate that **systemic racism towards Indigenous persons** and other racial minorities is **widely and deeply entrenched in police forces** across Canada and Quebec.
- Far from diminishing the importance of this Commission's work, these reports lend it even **greater urgency**.



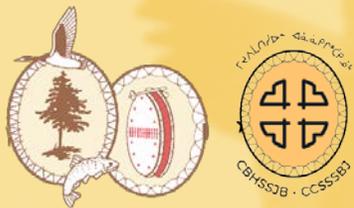
Police – The Evidence

- **Many Indigenous women and men** who appeared before the Commission have shared stories, often shocking and sometimes tragic, of **misconduct or mistreatment** from the **police and the legal system** in Québec.
- The **scale, duration and intensity of misconduct** by police officers in Val-d'Or and elsewhere towards Indigenous persons constitute a pattern of **systemic racism**.
- The misconduct was **not isolated or occasional**. Although not every police officer participated, the misconduct was **widespread, constant and unchecked** by police leadership over a period of years.
- The police misconduct was both **individual and institutional**.



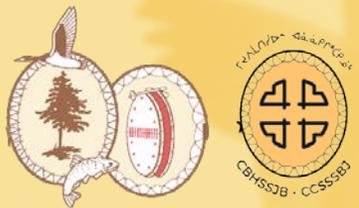
Police – The Evidence

- The stories show a systemic pattern of **individual police misconduct** specifically targeting Indigenous persons.
- The misconduct ranges from **rudeness and disrespect**, through lack of empathy, racism, to **harassment and intimidation, sexual abuse** and soliciting of sexual favours, **illegal confinement and abduction (including “starlight tours”)**, and, **most disturbingly, physical violence and killings.**
- These stories of **police brutalization** mark the **collective consciousness** of Indigenous peoples, not just within the community at the time, but also from **generation to generation.**



Police – The Evidence

- The evidence presented to the Commission also shows a form of **institutionalized racism** in the “**Escouade Centre-Ville**”, a deliberate strategy established by the SQ leadership in Val-d’Or in 2014 and 2015.
- **SQ officers in Val-d’Or issued written guidelines explicitly calling for more rigorous enforcement of municipal by-laws against homeless (Indigenous) persons, more ticketing, more fines and more court proceedings, in the full knowledge that the process would inevitably lead to imprisonment.**



Police – The Evidence

- The **combination of individual misconduct and institutional repression** by SQ officers towards Indigenous persons in Val-d'Or before October 2015 can only be described as **systemic racism**.
- Police misconduct has left a **legacy of fear and mistrust** among Indigenous persons. It has caused profound and lasting damage to large numbers of Indigenous women and men. They have suffered deep wounds, both physical and psychological.
- Aside from the physical and sexual assaults and daily harassment and intimidation, many Indigenous persons have endured **damage to their self-confidence**, self-respect, conjugal and family relationships.
- The result has been to reinforce the **fear and mistrust** of Indigenous persons towards the police.



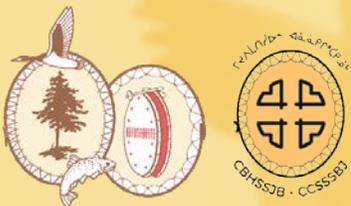
Police – Issues and Recommendations

Decriminalize Homeless Indigenous Persons

- An obvious place to start is to **end the criminalization of homeless Indigenous persons**. It is **intolerable** that homeless Indigenous persons are **still being imprisoned in Québec for failure to pay municipal by-law fines**.
- The Commission issued a recommendation in September 2017 calling for the suspension of detention for non-payment of municipal by-law fines.

RECOMMENDATION

- **The Government of Québec should immediately amend legislation to eliminate incarceration for non-payment of municipal by-law fines.**



Police – Issues and Recommendations

Attacking the Housing Crisis

- **The housing crisis in Indigenous communities is the hidden iceberg lurking below many of the issues** brought before this Commission.
- **Desperately overcrowded and substandard housing** in Indigenous communities, in some cases similar to third world conditions, lies at the heart of the social and health issues plaguing Indigenous communities.
- **Overcrowded housing** hinders success in school. It creates tension within the family. It breeds **conditions ripe for physical and emotional abuse**.
- **Overcrowded housing** drives many Indigenous persons to “escape” to urban centres, only to find themselves homeless and living in the street, prey to violence and abuse.



Police – Issues and Recommendations

Attacking the Housing Crisis

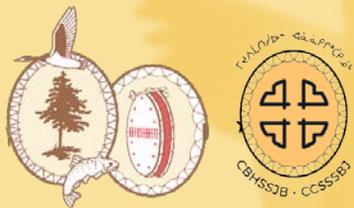
- **Until the housing shortage in Indigenous communities is addressed through concrete action, other actions will come to nothing.**
- **Until this single issue is resolved, Indigenous people will continue to be driven from their communities to urban centres, where some will become marginalized.**
- **The deployment of more social workers and shelter beds in the cities, while helpful, will not solve the real problem.**



Police – Issues and Recommendations

Attacking the Housing Crisis

- **Constitutional issues must not prevent Québec from addressing the critical housing needs of Indigenous people, whether on- or off-reserve.**
- **To deny services based on constitutional or jurisdictional issues amounts, in practice, to discrimination against Indigenous people.**
- **Jordan's Principle should be adapted to require the Government of Québec or Canada, whichever first receives the request, to address the housing needs of Indigenous persons, whether on- or off-reserve, and to take any and all effective action to address the need.**



Police – Issues and Recommendations

Attacking the Housing Crisis

RECOMMENDATIONS

- **The federal, provincial and Indigenous authorities should immediately undertake concerted action, with the commitment of significant new resources by Canada and Québec, to remedy the housing crisis in Indigenous communities, whether on- or off-reserve.**
- **The Governments of Québec and Canada should immediately commit to adapt “Jordan’s Principle” to meet the housing needs of Indigenous persons, whether on- or off-reserve, such that the Government first approached in this regard shall take any and all effective action required to address the request.**



Police – Issues and Recommendations

Attacking the Housing Crisis

RECOMMENDATION

The Governments of Canada and Québec should commit to partner with the Cree Nation Government in implementing the Cree Nation Housing Strategy to ensure access for all Cree to decent, affordable housing.



Police – Issues and Recommendations

Coordination of Services

- The **lack of adequate social and health services**, the **over-reliance on police officers as first responders** and the lack of appropriate training for these officers all contributed to create misunderstanding and mistrust between Indigenous persons and police officers in Val d'Or.
- An **integrated approach, with improved coordination of community resources**, is needed to respond to the needs of homeless Indigenous persons.
- The GCC(EI)/CNG **supports this integrated approach**, for example:
 - Partnerships with the **Cree Health Board** in the construction and operation of two **Women's Shelters** in Waswanipi and Waskaganish and Youth Facility in Mistissini;
 - Partnership with the **Cree School Board** in providing educational and cultural activities for Cree youth at risk.



Police – Issues and Recommendations

Coordination of Services

- The Cree Nation Government endorses the following recommendation of Professors Bellot and Sylvestre:*

RECOMMENDATION

Community resources should be better coordinated both to respond to emergency situations as well long term social needs. Such resources must be adapted to Indigenous people in accordance with their culture and legal traditions. These services should include mental health services, harm reduction programs in the case of alcohol, as well as specific programs for vulnerable women.

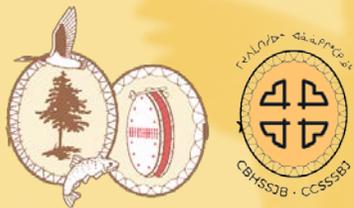
* Céline Bellot and Marie-Eve Sylvestre, Observatoire sur les profilages, Executive Summary – *The Judicialization of Homelessness in Val d'Or*, December 2016, French version, *La judiciarisation de l'itinérance à Val-d'Or*, Exhibit P-057.



Police – Issues and Recommendations

Model of Police Services – From Repression to Relationships

- The persistent tensions between police officers and Indigenous persons in Val-d'Or stemmed in large part from the **repressive model of police service** deployed by the SQ before October 2015.
- The “**Escouade Centre-Ville**” took an **almost purely repressive approach** – ticketing, fines, detention, court proceedings and, in some cases, imprisonment.
- Yet **another model** was and is available: one based on **building relationships with the Indigenous communities, social services and local community resources.**



Police – Issues and Recommendations

Model of Police Services – From Repression to Relationships

- After the crisis in October 2015, the **new SQ commander** in Val d'Or considered the issue of homelessness and possible approaches to “dejudiciarize” it, including
 - **building relationships with Indigenous leaders and communities;**
 - **coordinating police services with complementary social services and community resources.**
- This approach is consistent with a **broad consensus** in favour of a multidisciplinary, relationship model of policing, as advocated by former Saskatoon Police Chief **Clive Weighill**, Lac-Simon Police Chief **Jean Vicaire** and Commissioner **Jacques Viens**.

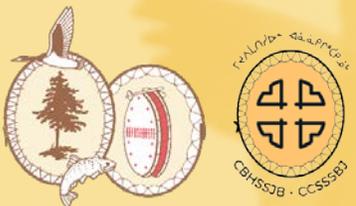


Police – Issues and Recommendations

Model of Police Services – From Repression to Relationships

RECOMMENDATIONS

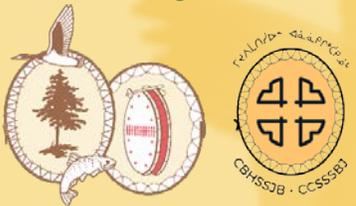
- The Sûreté du Québec should officially reject the repressive model of police services embodied by the Escouade Centre-Ville.
- The ministère de la Sécurité publique and the Sûreté du Québec should immediately establish a Working Group to make recommendations concerning the deployment across Québec of a multidisciplinary, relationship-based model of policing for Indigenous communities and persons.



Police – Issues and Recommendations

Accountability – Ending the Culture of Impunity

- Little if any effort was made internally at the SQ to stop the police misconduct in Val-d’Or until the *Enquête* report in October 2015.
- The failure by SQ officers to report misconduct by their colleagues over a period of years can only lead to suspicion of a “**law of silence**”, or “**omerta**”, among police officers that prevented effective internal discipline and sanction.
- These events indicate a **lack of internal accountability** within the SQ and suggest wilful blindness, if not tacit acceptance of the misconduct, by the local SQ in Val-d’Or at the time.
- The result was a **culture of impunity**, in which police officers inclined to abuse Indigenous persons felt free to do so.



Police – Issues and Recommendations

Accountability – Ending the Culture of Impunity

- The problem is compounded by the **failure of the central leadership** of the Sûreté du Québec **to take ownership of the problem.**
- When invited at the Commission to reflect on the events of Val-d'Or, the **SQ Director-General** at the time **declined to assume responsibility** or to offer an apology on behalf of the Sûreté du Québec.
- His failure to do so signals a **refusal to confront the problem**, a necessary step towards its resolution.
- The **refusal** by the SQ central command of the Sûreté du Québec to **offer an apology** was profoundly **wounding to the Indigenous women and men** who endured mistreatment by SQ officers.

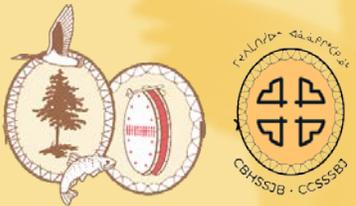


Police – Issues and Recommendations

Accountability – Ending the Culture of Impunity

RECOMMENDATION

- In order to strengthen accountability and end the culture of impunity, the Sûreté du Québec should review its internal reporting procedures to ensure that allegations of misconduct by SQ officers against Indigenous persons, wherever they occur, are brought immediately to the attention of the highest level of central command.
- The Grand Council/Cree Nation Government also supports the recommendation of the Quebec Native Women* for the creation of a professional order of police in order to instil a culture of professionalism, improve the quality of police services and provide greater oversight. (*Brief of 30 November 2018, p. 32)

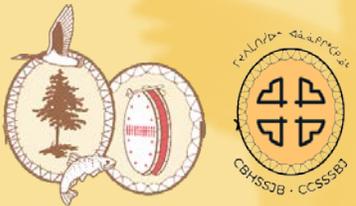


Police – Issues and Recommendations

Accountability – Ending the Culture of Impunity

RECOMMENDATION

- In order to open the path to reconciliation, the Director General of the Sûreté du Québec at the time of the Val-d'Or crisis should acknowledge the corporate responsibility of the Sûreté du Québec for the mistreatment suffered by the Indigenous women and men in Val-d'Or and to offer them an official apology on behalf of the Sûreté du Québec.



Police – Issues and Recommendations

Culture & Training

- **Radical change** is required in police attitudes toward Indigenous persons in Quebec.
- Jean Vicaire testified that **training in Indigenous realities should be obligatory for police officers**, noting that Ontario Provincial Police officers receive five days, not one or two, of such training.

RECOMMENDATION

- **The ministère de la Sécurité publique and the Sûreté du Québec should immediately implement a mandatory training course for all police officers in Indigenous realities of a minimum of five consecutive days.**



Police – Issues and Recommendations

Support for Indigenous Police Forces

- Indigenous police forces are by definition community-based. They are most alive to the priorities and concerns of Indigenous communities regarding police services.
- But most Indigenous police forces in Québec are understaffed, underfunded and lacking in training, facilities and training.

RECOMMENDATION

- **The Governments of Québec and Canada should provide Indigenous police forces across Québec with secure, multi-year funding adequate to meet their needs in terms of recruitment, training, staffing, retention, and professional development of police officers and support workers, operations, equipment and capital facilities.**



Police – Issues and Recommendations

Support for Indigenous Police Forces

- **Indigenous police forces need more Indigenous police officers.**
- For that to happen, greater efforts are needed to attract Indigenous candidates to the École nationale de police du Québec (“ENPQ”).

RECOMMENDATIONS

- **The ENPQ should offer its basic and advanced training in English for Indigenous candidates and police officers.**
- **The ENPQ should adapt, in consultation with Indigenous police forces, its physical admission criteria and tests for Indigenous candidates and officers.**



Police – Issues and Recommendations

Police Complaints Process

- The testimony heard by the Commission clearly establishes that the **current police complaint process does not work for Indigenous persons.**
- Many Indigenous witnesses told the Commission that they **fear and mistrust police officers.**
- It is **difficult for an Indigenous person to complain about the police to the police in a police station**, the more so as the offending officer may be right there on the premises. As one witness put it, that is like going into the lion's den.
- The Police Ethics Commissioner requires that a **complaint be filed in writing.** This can place Indigenous complainants at a disadvantage since many are more at ease relating a story or an event orally, rather writing it down.

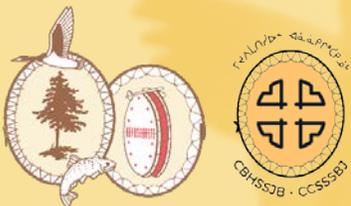


Police – Issues and Recommendations

Police Complaints Process

RECOMMENDATIONS

- Complainants should be permitted to file complaints verbally, by telephone, with the Police Ethics Commissioner, with support from a liaison agent.
- A liaison agent should be provided in each Indigenous community to assist Indigenous citizens in the exercise of certain rights, such as filing a complaint before the Police Ethics Commissioner.
- The *Police Act* should be amended to extend the time limit to file a complaint with the Police Ethics Commissioner from one year to be three years.



Justice

- The Commission is referred to the briefs filed by the **Department of Justice and Correctional Services** of the Cree Nation Government (**Exhibit P-055**) on September 15, 2017 and June 15, 2018, as complements to the Initial Brief filed by the Cree Nation Government on June 14, 2017.
- The Brief filed by the Department of Justice sets out “**Paths Forwards**” addressing a wide range of subject-matters, such as:
 - CAVAC services;
 - Investigations of complaints or allegations of misconduct against police force members;
 - Violence against Indigenous women and sexual exploitation;
 - Services in the correctional system.
- These Paths Forward are **steps to be taken towards reconciliation.**



Justice

- Some **additional recommendations**:
- The Government of Québec should be called upon to fully implement Section 18 of the *James Bay and Northern Québec Agreement*, dealing with the administration of justice for the Crees, which includes:
 - **Additional training on Cree values** for members of the judiciary, probation officers and non-Cree persons engaged in the judicial and legal system;
 - **Probation, parole, rehabilitation and aftercare services** should be provided to the Crees, in the Cree language and in a manner adapted to their culture;
 - **Crees should be recruited, trained and hired** to assume, to the greatest extent possible, positions within the **administration of justice**.
- Certain of these recommendations are similar to those put forward by other parties before the Commission, including the Barreau du Québec.



CBHSSJB

- The Cree Board of Health and Social Services of James Bay (“**CBHSSJB**”) is a unique institution of Indigenous governance in health and social services. It was established pursuant to Section 14 of the JBNQA.
- The CBHSSJB is the only health and social services institution in Québec governed by its own statute, the *Act respecting health services and social services for Cree Native persons* (S-5).
- The CBHSSJB operates the Chisasibi Regional Hospital, primary care clinics in each of the nine communities. It also coordinates medical travel and appointments in Val-d’Or, Montreal and Chibougamau for Cree patients referred for certain medical and social services not available in their home community.
- The CBHSSJB is also responsible for Youth Protection and Youth Healing for Eeyou Istchee children and youth.



Culturally Safe Care and Services

- **Cultural safety** is an outcome based on respectful engagement that recognizes and strives to address power imbalances inherent in the healthcare system. It results in an **environment free of racism and discrimination**, where people feel safe when receiving health care.
- **Cultural safety** is a central concept in the services provided by the CBHSSJB and **should be imbedded in the services provided by all stakeholders** in the health and social services network in Québec, through the following:
 - **Make cultural safety training mandatory** for public servants who work directly with Indigenous clients, families and communities;
 - **Improved communication** between Indigenous clients and service providers by reducing or removing language barriers;
 - **Increase programs and funding** to provide cultural support in healthcare establishments, such as access to traditional food, traditional healing and land-based services;



Cultural Safety in Legislative and Policy-Making

- **Cultural** must be integrated into the development of **healthcare legislation and policy**, to foster culturally-adapted health and social services to Indigenous peoples.
- This can be achieved through **tangible actions**:
 - **Involve Indigenous communities in legislative review**, as was done with the recognition of Aboriginal customary adoption in the *Civil Code of Québec*;
 - Amend the *Act respecting health services and social services for Cree Native persons* to incorporate and recognize **traditional healing**;
 - Implement TRC recommendations concerning **child welfare**; and
 - Enable the **translation into English** of important **policy and planning documents**.



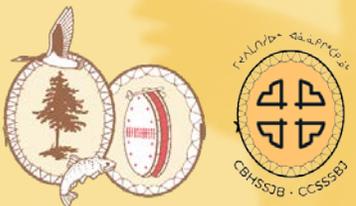
Services Within Communities

- The CBHSSJB seeks to provide a wide array of culturally health and social services to the Cree population in Eeyou Istchee, so that they do not have to leave the territory.
- To achieve this goal, several measures could be implemented:
 - Bring **specialized services** including obstetrics and dialysis to healthcare establishments **in Indigenous communities** instead of sending patients outside their community;
 - **Support efforts to recruit and retain health professionals working in Indigenous communities** in Québec, to ensure a stable workforce with a knowledge of the cultural and community context;
 - **Remove systemic barriers to the training and hiring of Indigenous professionals in health and social services.**



Housing as Social Determinant of Health

- The CBHSSJB joins with the GCC(EI)/CNG in identifying **inadequate housing as an underlying cause of many of the negative social and health outcomes** faced by Indigenous populations, including in Eeyou Istchee.
- A **strategy to address the housing crisis** in Indigenous communities and the urban setting would **directly benefit Indigenous health outcomes** and would help to protect the most vulnerable from homelessness and vulnerability to poor health, exploitation and violence.



Questions & Discussion

