

THE PRIVATIZATION OF A DETENTION CENTRE IN THE *MONTÉRÉGIE*

The position of the

Association des services de réhabilitation sociale du Québec (ASRSQ)
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BACKGROUND INFORMATION

In the context of public statements pertaining to the establishment of the *Agence des partenariats public-privé* (public-private partnerships – [PPP]), the Quebec Government has announced its intention to privatize a detention centre. This has prompted the Board of Directors of the *Association des services de réhabilitation sociale du Québec* (ASRSQ) to bring together a committee of experts to review this issue. This committee is guided by the expertise of its members, as well as by an analysis and research into experiments currently under way around the world.

The committee (See committee membership in the appended *Communiqué*) was mandated by the ASRSQ to review the issues arising from the privatization of a detention centre; it held a meeting with representatives of the *Services correctionnels du Québec* ((SCQ) – Quebec Correctional Services) who are the lead agency in this matter. At that meeting (October 18, 2004), the SCQ provided a few details relative to this project. Following is an overview of the information provided:

- The detention centre would be located in the *Montérégie* region, thereby enabling offenders from that area who are sentenced to prison to serve their sentence there.
- This centre would be built because of the obsolescence of the detention centres located in Sorel and Valleyfield.
- Given the precarious state of Quebec's finances, the funding for such a centre would originate from the private sector.
- The new centre would include 300 cells although the two detention centres it is intended to replace – Sorel and Valleyfield – include a total of only 120 cells (it should be noted that the media have alluded to the building of a detention centre consisting of 500 cells).
- The profile of the inmates who would be housed in this facility has not yet been determined.
- Even if that centre were to be built, the Government has not yet committed to closing down the Sorel and Valleyfield detention centres.
- Three scenarios are under consideration: Under the first scenario, the funding, the design, the construction, and the maintenance of the centre would be privatized. Under the second, some of the support services would be added to the first list, namely food services, training and workshop programs. The third scenario would pave the way for an all-out privatization of activities, including the supervision of inmates, except for activities which may require the use of force or disciplinary measures. Under this last scenario, sentence management would remain under the authority of the public sector, under a person designated as *chef de conformité* (Head of compliance). However, tasks would continue to be performed by the private sector. The 3 scenarios would include an auditor from the public sector.

- Those responsible for this initiative must develop a business plan by the end of February. There is a requirement to demonstrate the value-added nature of such a PPP.

ISSUES TO BE CONSIDERED

Is a detention center needed?

Even before expressing a position on the privatization of a provincial detention center (which would accommodate inmates serving sentences of up to 2 years less 1 day and accused persons on remand), the Committee thought it relevant to attempt to answer the following question: **Is it really necessary to build a new detention centre under provincial jurisdiction?**

In developing its answer, the committee reviewed data relative to the evolution of criminal activity, to demographic trends, and changes in the prison population. These data point to a drop in the crime rate, to an ageing of the population, and a decreasing use of incarceration. On the basis of its analysis of these data, the Committee members agreed that over and above the obsolescence of certain detention centres, the data that were reviewed confirmed that nothing leads to the conclusion that the province has an increasing need for additional prison cells.

While some may be of the opposite view in light of the drop in the number of temporary absences, the increased length of time served within institutions, and the increasing number of accused persons being held on remand, it is the view of the ASRSQ that these situations are attributable mainly to the lack of resources which affects the *Services correctionnels du Québec* (Quebec Correctional Services). This lack of resources is in turn attributable to a chronic under funding of the Quebec correctional system. Longer periods of time served before release are but one of the consequences of this lack of resources. Indeed, reduced resources negatively impact on the adequate assessment of inmates and persons on remand, as well as on the ability to provide a desirable level of control. Let us be reminded that a number of bodies, including the *Protecteur du citoyen* (Ombudsman), have exposed the under funding of the *Services correctionnels du Québec* (Quebec Correctional Services) and advocated on their behalf. Further, this under funding is at the very heart of the problem as it is preventing the implementation of the *Loi sur le système correctionnel du Québec* (An Act Respecting the Québec Correctional System) which was enacted two years ago following the murder of Alexandre Livernoche.

Consequently, given the lack of proper assessment and intervention programmes as well as the limited correctional resources available to provide supervision within the community, incarceration remains an unavoidable option for a number of decision-makers.

It is the view of the ASRSQ that, if they were properly funded, the *Services correctionnels du Québec* (Quebec Correctional Services) could adopt adequate controls on the number of cells required, all the while ensuring that the best interests of victims, the community, and offenders are served.

What is needed is to strengthen the quality of the controls and supervision that are provided, to enhance the assessment process of offenders, and the programmes required for them to reintegrate the community. Incidentally, when the shift in direction of the correctional system was initiated in 1995, the minister at that time had closed down a number of detention centres and indicated that he hoped to be able to use the resulting savings to enhance the processes we just outlined. However, except for the closing of a few detention centres, his hopes never materialized.

Finally, there is a need to provide judges and members of the *Commission québécoise des libérations conditionnelles* (Quebec Parole Board) with alternatives to incarceration that will be effective and credible in the eyes of both the public and those coming into contact with the criminal justice system. One of the keys to achieve this involves enhancing the level of control for persons serving a conditional sentence of imprisonment in the community and for persons under supervision as a result of a probation order or a release on parole.

As for the need for more modern facilities, the ASRSQ is of the view that the current situation within the federal system of penitentiaries should provide a unique opportunity for both orders of government to develop a federal-provincial agreement. Indeed, as a result of the drop in the crime rate and the decrease in the length of sentences, a number of cells are currently available within federal institutions. These could serve as a replacement for those considered outdated within the provincial system.

Taxpayers have invested a great deal in the building of correctional institutions within the province; therefore, from their point of view, a federal-provincial agreement may be perceived as a reasonable alternative, one that would be desirable from the perspective of the sound management of public funds. Incidentally, such agreements are possible as exemplified by the agreement concluded between the Government of New Brunswick and the Federal Government. That agreement includes accommodation services and the temporary detention of at-risk and high-needs offenders.

Issues pertaining to the privatization of corrections

The analysis produced by the ASRSQ contains information relative to various models of privatization, in particular those valued in France, Great Britain, the United States, and Ontario. We encourage the reader to review our document to find out more about each of those models.

However, there are a several significant elements emerging from the various experiments in privatization:

1. Despite the claims of the proponents of privatization, “...*there exist no reliable data to support the notion that private prisons are more effective and provide services of a better quality...*” (See note 46 on page 25).
2. Private detention facilities are subject to high rates of staff turnover and major incidents (See note 45 on page 25).

3. Architectural designs are based on the panoptic model which favours electronic monitoring, regardless of the needs of the inmate population.
4. Among others, legal issues and the issue of the delegation of powers and responsibilities by the State are of major significance. The central issue is one of social control; therefore, one needs to question the role of the private sector in providing custodial and sentence management services. The use of force, psychological follow-up, disciplinary actions, and the handling of confidential information are all matters to be considered.
5. From an ethical perspective, given that the private sector is inherently profit-oriented, this consideration might prevail over the notion of effectiveness and could serve as a basis for repressive correctional measures which would foster the use of imprisonment. From an ethical perspective still, the differences in the underlying philosophies of the public and private sectors could lead to major disparities in the living conditions and the treatment of offenders, depending on who manages the institution where they happen to be serving their sentence.
6. A number of issues are at stake from a clinical perspective, particularly the effectiveness of rehabilitation programmes since *what happens following release* is not a priority for the private sector. One needs to be concerned also with the quality of training provided to staff, the standards that would apply, and the nature of the programmes that would be offered depending on an institution's security level.
7. The greatest of care needs to be taken to ensure that human rights are protected. Indeed, should the private sector become involved, people need assurances that an accountability mechanism will be in place, as well as a level of openness that will guarantee the protection of human rights and compliance with the *Charters*.
8. The current project was never opened to public debate.

POSITION OF THE ASRSQ

Given the demographic trends that point to an ageing population and a decreasing number of young people which, jointly, lead to a drop in the level of criminal activity;

Given the recent coming into force of the *Loi modifiant le Code de la sécurité routière et le Code de procédure pénale concernant la perception des amendes* (An Act Respecting Amendments to the Code of Highway Safety and the Code of Criminal Procedures in Regard to the Recovery of Fines) the purpose of which is to prevent the use of imprisonment for unpaid fines;

Given that the current problems experienced by the *Services correctionnels du Québec* (Quebec Correctional services) having to do with the levels of occupancy are attributable, among other things, to the under funding of the Quebec correctional system and, consequently, its inability to resort optimally and safely to alternatives to incarceration;

Given that there are several cells that are available and in good condition within the federal system, and that lease agreements could be negotiated by Quebec Government, as was done in the past;

Given that studies conducted on private prisons are unable to confirm that this model leads to cost savings or that it is effective;

Given that the *raison d'être* of the private sector could lead to a greater use of incarceration to the detriment of investments in more effective controls, in programmes, in open custody, as well as in programmes of gradual release into the community;

Given the profile of Quebec's inmate population which is confronted to a host of problems such as social and mental problems, violence, and drug abuse;

Given all that is at stake in relation to privatization;

The *Association des services de réhabilitation sociale du Québec* :

1. Is opposed to the building of a new detention centre;
2. Is opposed to a detention center being built and managed by the private sector;
3. Is opposed to the privatization of services linked to sentence management, except for particular support services such as maintenance and upkeep, food services, and training services;
4. Wishes to encourage the Quebec Government to conclude an agreement with the Federal Government to meet its needs in terms of modern facilities;
5. Wishes to encourage the current Government to reinvest in corrections so as to control the level of the prison population more effectively. The Association is calling on the Government to implement the *Loi sur le système correctionnel du Québec (An Act Respecting the Québec Correctional System)* which was enacted two years ago now. This *Act* set out mechanisms for the assessment and control of offenders for the purpose of ensuring public safety;
6. Wishes to encourage the Government to strengthen alternative-to-incarceration programmes;
7. Invites the Government to abide by the *Mission Statement* of the Correctional Services which favours the social reintegration of offenders;
8. Calls upon the Government of Quebec to impose a two-year moratorium that would allow for a more in-depth study of the issues and a true public debate.