

Allocution de M^e Annick Murphy,
directrice des poursuites
criminelles et pénales

Conférence annuelle de la NDAA

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Québec



Mister President of the NDAA,

Distinguished guests,

It is for me a great honour and a pleasure to speak to you as the Director of criminal and penal prosecutions of Québec, but even more, to be here, in the wonderful and historical city of Québec. Welcome to everyone!

I began my career in 1981, as a Crown prosecutor at the Montreal Office in criminal matters for adults, and I then dedicated my career in prosecutions involving teenagers, a unique and inspiring field in which I worked on cases against street gangs and cases on sexual assaults. I have been appointed Deputy Director of criminal and penal prosecutions in 2012, and it's in January 2015 that I have become the Director of criminal and penal prosecutions and Deputy Attorney General.

50 YEARS OF THE PROSECUTOR AND THE DCPD IN SHORT

We celebrate this year 50 years of public prosecutions in Québec. The *Act respecting Attorney General's prosecutors* adopted in 1969 was, indeed, the first step for independence of the public prosecutor as we know it today. Before that date, prosecutors were coming from private practice. These prosecuting attorneys were changing depending on the ruling government. This way, an attorney could analyze a case and lay charges in the morning, and the same day, act as a defence attorney before the tribunal. The *Act respecting Attorney General's prosecutors* ended this practice: prosecutors were then appointed under the Public Service Act by the Lieutenant-Governor in council. They were permanent prosecutors and they could not hold another position than Attorney General's prosecutor. It was a great benefit because it ensured the continuity of the growing expertise within the institution and prosecutors were then entirely dedicated to their functions. Also, the Act required political neutrality and the prohibition to participate to partisan activities. These conditions still remain today.

In Québec, the Minister of Justice also acts as the Attorney General. In the 2000s, we felt a willingness to create an

institution more independent in order to differentiate the core functions of the Attorney General, performed by the Minister of Justice, from the ones related to criminal and penal public prosecutions.

In 2005, after a long reflection, the *Act respecting the Director of Criminal and Penal Prosecutions* is adopted. It gave to the province of Québec an independent and modern institution, providing the works of the Director of Criminal and Penal Prosecutions. The Director directs all criminal and penal prosecutions in Québec on behalf of the State under the general authority of the Minister of Justice and Attorney General. The Director is to exercise the functions conferred on the office by this Act, with the independence provided for in this Act. The Director appoints the criminal and penal prosecutors who are empowered to represent the Director in the exercise of the functions of office. These are the functions I performed since 2015.

The history and origins of our institution are fascinating: I warmly recommend you to read the two articles of the DCPD issued in the last release of the magazine *The Prosecutor*.

Although differences are existing between the American and Canadian justice, our respective missions essentially aim the same objectives: protect the society, work for the public good in the best interests of justice, address the best interests of victims and witnesses and finally, encourage their participation in the judicial process.

INTRO DCPD/NDAA

Innovations in Prosecution, the subject of your meeting has a special significance for us actually because we mark the three years of a Judgment pronounced by the Supreme Court of Canada, the Jordan Judgement. The court imposed a framework in which a delay between laying charges and the actual or anticipated end of a trial is presumed to be unreasonable. The presumptive ceiling is 18 months for cases tried in the provincial court, and 30 months for cases

in the superior court unless exceptional circumstances. This judgment caused a hurricane for all the actors of the justice system, especially for the DCPD. This situation required immediate actions and forced us to innovate by different manners because the burden to bring the case to an end lies on us, failing which, the stay of proceedings is entered.

It would be tedious to raise all changes and innovations brought in the last years. However, some are more significant and please, let me talk about some of them.

We have instituted through most of the DCPD offices an **Rapid offer to settle**. This program aims to propose to the accused, at the beginning of the procedures, a rule settlement if he accepts to plead guilty as soon as practicable. This proposition takes into account that no witness will be heard and that no proposition will be made by the prosecutor, and this proposition is valid for a certain period of time.

Adding the fact that it facilitates dialogue between parties, **Rapid offer to settle** reduces the number of required hearings to complete a case.

We implemented alternative measures to legal proceedings that permit to deal with less serious offences, including a **Non-judicial treatment of certain criminal offences committed by adults**. It applies to a person with no significant judicial record, accused of a criminal offence and that has not disturbed the social order or compromised the fundamental values of the society. This program is based on the principle of moderation in criminal law under which it is possible to deal with less serious offences by all measures to legal proceedings. The eligible offender to the program can receive a warning letter or a formal demand.

The **Justice Mental Health Support Program** has been made in partnership with various partners representing justice, health and social services, and public safety. They aim to accompany adult offenders with mental health,

homelessness and addiction problems that have to face the judicial system.

These people must have committed less serious offences. They must be able to stand trial and be criminally responsible. A significant link must exist between the committed offence and the mental health issue. The person must take part voluntarily to the program and be ready to be invested within the recovery objectives established upon his needs and capacities.

A multidisciplinary team ensures an individual follow-up and guidance within the community in order to reduce the use of detention. The objective is to reduce recidivism, ensure the public protection and aim to rehabilitate the citizen.

At the end of the approximate 6 or 18 months program, different measures can be intended from stay of proceeding to a non-custodial sentence, if the offender succeeded the process and that if circumstances allow it.

We also participate to the **Quebec Court-supervised drug treatment program** and to the General alternative measures program for adults.

TRANSFORMATION OF THE JUSTICE SYSTEM

The DCPD and the partners of the justice system are involved in an ongoing and appreciable strategy in the modernization and transformation of the justice system.

This project essentially aims to reduce turnaround times of a case as of the charges laid to the final conclusion. Involving the DCPD, the principal measure of this project is to develop an electronic system that will computerize prejudicial and judicial parts of prosecution cases.

This includes to receive electronically, from police officers, evidence and information to complete an application to initiate legal proceedings. By now, these documents are

submitted by paper at the offices of the DCPD. The electronic filing is an innovation for the DCPD.

COMMUNICATIONS

Criminal cases are often mediated and thoroughly followed by citizens who want to better understand the daily decisions taken by prosecutors. I think that our mission is way beyond criminal and penal prosecutions. We must admit that some myths about our work are persistent. It is necessary to better inform the population so that they will understand roles and responsibilities that we bear, and this way ensures the increase of trust toward our institution and all of the system.

In fall 2018, I created a Communications Branch in my organization. This Branch increase successful initiatives to show the DCPD mission and the roles of its prosecutors.

The DCPD embraced a digital turn that was necessary and welcome, to open the dialogue with citizens through social

media. It appeared obvious to me that we had to meet the citizens, where they were. The creation of the Communications Branch helped to increase our visibility to the population and to reach people that were not meant to make contact with us.

We are now active on main social media and we take the opportunity to speak every time we can. Our team initiated different and original means, a unique tone for every platform and disseminated content accessible for each and every public. I am very proud of this changing model and we already see clearly the benefits to better communicate with the population.

Projet LEAD

I take the opportunity to underline an example of an American innovation that inspired the DPCP: the project LEAD. This project is under the name of *Legal enrichment and decision-making*. This initiative of the District Attorney's Office of Los Angeles was adapted to reflect Quebec's

reality and for sure, it has been a great success, to the point that it is difficult to answer to all request as fast as possible.

This project aims to empower fifth grade students about life decisions and learn to them some fundamental principles of the Québec justice system.

Dozen prosecutors accepted to get involved and to become, within 18 weeks, trainers with positive influence to thousands of students that benefit from this project since 2015.

This shows that our mission is not only in court rooms. I want to recognize and thank the District Attorney, Ms. Jackie Lacey, for having shared this initiative with us.

The collaboration between American and Canadian prosecutors is essential, I would even say natural, taking into account mutual issues with transboundary security. I am proud of Ms. Sonia Paquet's involvement within the NDAA

works and for her appointment at the Executive Committee. This appointment makes her the first Canadian to sit at this committee, and I want to thank her for that.

CONCLUSION

This forum is an extraordinary opportunity to inspire better practices with our partners, to create instructive and professional relationships, to assess issues that go beyond Canadian and American borders, and to think about innovative solutions offered to us.

I wish to everyone a good conference, a pleasant stay and thanks again for your presence.