

THE QUÉBEC  
ECONOMIC PLAN

March 2018

# *Justice*

BUDGET 2018-2019

## **A Plan to Modernize the Justice System**



Budget 2018-2019  
Justice: A Plan to Modernize the Justice System

Legal deposit – March 27, 2018  
Bibliothèque et Archives nationales du Québec  
ISBN 978-2-550-80947-0 (Print)  
ISBN 978-2-550-80948-7 (PDF)

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# HIGHLIGHTS

The Ministère de la Justice plays a unique and essential role in Québec society. It exercises all governmental responsibility for the justice system, one of the foundations of civil society.

The foundations of Québec's justice system are recognized. However, the current system has shortcomings that must be addressed.

- No proceeding should be stayed because of unreasonable delays, except in exceptional circumstances.
- Citizens should be able to access their court record easily and quickly.

The March 2018 Québec Economic Plan presents measures to modernize the justice system. Additional investments of \$500 million are planned for this purpose between now and 2022-2023.

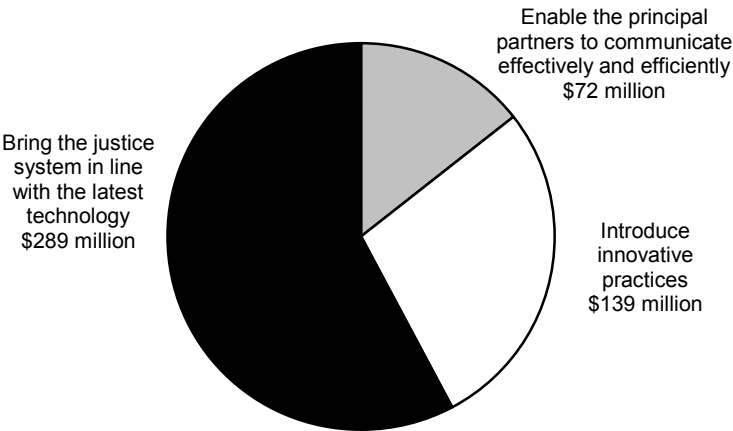
- Including the \$175 million over four years announced by the government in 2016 to increase the number of judicial resources (judges, prosecutors, correctional services officers, etc.) in order to reduce delays, the total investment amounts to \$675 million.

The plan to modernize the justice system will make justice more accessible and more efficient. The funding will:

- strengthen public trust in the justice system;
- improve access and reduce delays;
- bring the justice system in line with the latest technology;
- reduce costs for citizens.

CHART 1

## Investments contained in the plan to modernize the justice system



## ❑ **Bringing in technology**

Modernization of the justice system will help not only to reduce waiting times in criminal and penal cases, but also to improve the accessibility and efficiency of justice. The funding will make it possible to:

- provide citizens with better quality legal information;
- prevent delays and errors arising from paper handling;
- manage files digitally and hold paperless digital hearings and, as needed, remotely;
- securely share information electronically between the various parties in the justice system;
- provide performance indicators and improve judicial statistics.

Improvements will initially be made to criminal and penal matters, but will also benefit civil matters. Furthermore, the government is seeking to modernize administrative tribunals, like the Financial Markets Administrative Tribunal.

## ❑ **Mobilizing all justice system players**

The citizen is central to justice, the cornerstone of any democratic society. The citizen contributes in various ways and should be able to benefit from it when necessary.

Key to the plan to modernize the justice system is the mobilization of all of the system's players, including the Ministère de la Justice, police forces, the Director of Criminal and Penal Prosecutions, the Ministère de la Sécurité publique, the judiciary, and the Barreau du Québec.

For the justice system to be efficient, each of its various players must implement innovative practices. The *Jordan*<sup>1</sup> decision also appeals to these players to do so.

Since each stakeholder shares information with its partners, the involvement of all is crucial to the flow of information and to efficient communication.

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<sup>1</sup> *R. v. Jordan*, 2016 SCC 27, [2016] 1 SCR 631.



# 1. ORGANIZATION OF THE QUÉBEC JUSTICE SYSTEM

Justice is a pillar of democracy and an essential component in a balanced society. Its role is to preserve basic freedoms and protect the public against any infringement of its rights. In this sense, it affects society as a whole.

## 1.1 The courts

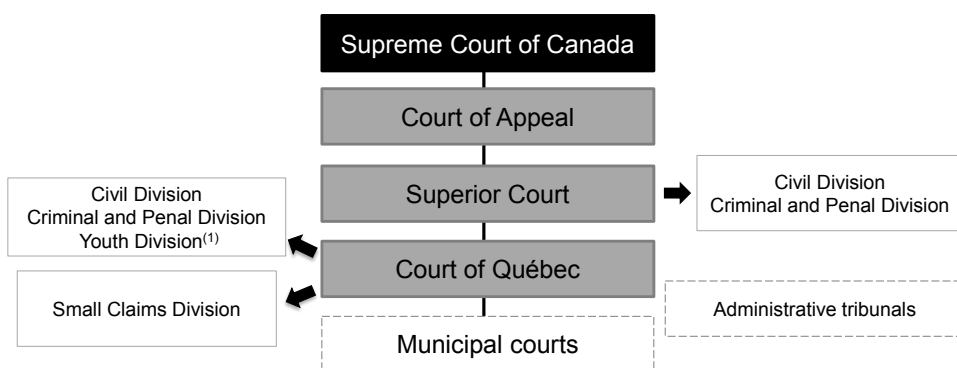
The justice system has a pyramid structure, with the Supreme Court of Canada at the apex. In Québec, the system is made up of courts of justice and administrative tribunals.

The courts hear civil, penal and criminal cases and render decisions in response to the claims of persons subject to trial or of the state. There are several levels of courts. This makes it possible for decisions rendered in a trial court to be appealed or reviewed by a higher-level court as appropriate.

- The Court of Appeal hears those who wish to contest the judgments of trial courts.
- The Superior Court is the court of general jurisdiction in Québec. It rules on civil and commercial cases where the sum at issue is \$85 000 or more. It also hears administrative and family disputes and bankruptcy proceedings. In criminal and penal matters, it hears jury trials and summary conviction appeals.
- The Court of Québec hears civil cases in which the sum at issue is less than \$85 000, as well as the majority of criminal cases, except where the accused elects to be tried by jury. In penal matters, it is seized with proceedings brought under the Code of Penal Procedure or any other provincial or federal penal law.

### ILLUSTRATION 1

#### Organization of the Québec justice system



(1) The Youth Division hears youth protection and adoption matters and criminal cases involving a defendant who was a minor at the time of the offence.

## 1.2 Some major player in the justice system

The citizen is central to justice, the cornerstone of any democratic society. The citizen contributes in various ways and should be able to benefit from it when necessary.

### ❑ The Ministère de la Justice

The Ministère de la Justice exercises all governmental responsibility for the justice system. The primary mission of this department is to maintain a credible and dependable system of justice in Québec. It is essential for the maintenance of public order.

To carry out its mission and provide citizens with quality services, the Ministère de la Justice calls on qualified personnel. As at March 31, 2017, it had a total staff of 3 444 individuals.<sup>2</sup>

- Almost 66% of the department's staff is assigned to the provision of the administration and support necessary for the operation of the courts of justice.
- Just over 13% of staff are legal advisers, jurists, trial lawyers and notaries.
- Approximately 6% of staff members process reports and statements of offences leading to prosecution, and close to 4% are engaged in record keeping.

### ❑ Police forces

Police forces are tasked with protecting the public, preventing crime, arresting offenders and gathering evidence that may be used in criminal or penal proceedings. When there are reasonable grounds to believe that an offence has been committed, the police file an application to bring proceedings against a person with the Director of Criminal and Penal Prosecutions.

As at December 31, 2016, the staff of Québec police forces numbered 19 411 employees.<sup>3</sup>

### ❑ Director of Criminal and Penal Prosecutions

Under the general authority of the Minister of Justice and Attorney General, the Director of Criminal and Penal Prosecutions provides an independent criminal and penal prosecution service on behalf of the state, thereby contributing to the protection of society, with respect for the public interest and the legitimate interests of victims.

As at March 31, 2017, the Director of Criminal and Penal Prosecutions had a total staff of 1 089.<sup>4</sup>

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<sup>2</sup> Ministère de la Justice, *Rapport annuel de gestion 2016-2017*.

<sup>3</sup> Ministère de la Sécurité publique, *La desserte policière municipale, provinciale et autochtone au Québec : profil organisationnel 2016*.

<sup>4</sup> Director of Criminal and Penal Prosecutions, *Rapport annuel de gestion 2016-2017*.

## ❑ The judiciary

The judiciary is composed of all judges whose role is to hold hearings and render judgments. To exercise this role, judges must preside over a hearing or trial, hear the parties and their witnesses, assess the evidence presented to determine whether it is credible or receivable, interpret the law and then render a judgment. Judges must be independent and impartial. They must also guarantee the parties a fair trial.

- The Court of Appeal of Québec currently has 21 judges, including the Chief Justice. In addition, there are supernumerary judges, of whom there may be no more than 20.<sup>5</sup>
- The Superior Court of Québec currently has 151 judges in two divisions, Montréal and Québec. In addition, there are up to 111 supernumerary judges.
- The Court of Québec is made up of 306 judges, including the Chief Judge, the Senior Associate Chief Judge and four Associate Chief Judges. In addition, there are per diem judges, whose number may vary.<sup>6</sup> Currently, the Court of Québec also has 39 presiding justices of the peace.

## ❑ The Ministère de la Sécurité publique

The Ministère de la Sécurité publique is charged with protecting the population against risks, including those of crime and natural disasters. It oversees the application of the legal and regulatory framework governing police, correctional services, civil security, fire safety and private security. The staff of correctional services, a key component of the justice system, numbered 4 254 in 2016-2017.<sup>7</sup>

## ❑ The Barreau du Québec and its members

The Barreau du Québec is the professional order governing lawyers. To protect the public, the Barreau du Québec monitors professional practice, promotes the rule of law, promotes the profession and supports its members in the practice of law. It has over 27 000 members. Lawyers inform their clients about laws and regulations, advise them, and seek out and propose the best solution for preventing or settling a dispute. They represent their clients in Court where necessary and defend their interests.

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<sup>5</sup> Supernumerary judges are judges of federal competence who choose to abandon their regular judicial duties, following certain criteria, to continue their careers as supernumerary judges until retirement and thus benefit from a reduced judicial workload.

<sup>6</sup> Per diem judges are retired Court of Québec judges who perform judicial duties for a period of time determined by an order. They may be assigned, for example, in order to offset delays that are almost inevitable until vacant positions have been filled.

<sup>7</sup> Ministère de la Sécurité publique, *Rapport annuel 2016-2017*.

### 1.3 The main categories of judicial cases

The Québec justice system is made up of main categories of law, including criminal law, penal law and civil law. The progression of a case is determined by the nature of the dispute. The objectives, the nature of the prosecutors or claimants, the time before a case comes to court, and the evidence required to persuade the judge differ from one category of law to another.

#### **❑ Criminal matters**

The Criminal Code is the legislative foundation of criminal law. It sets out prohibited criminal behaviours that can be prosecuted in Canada. The principle in a criminal trial is always the same: a person is prosecuted by the state because he or she is accused of committing a crime. A criminal prosecution is a public law prosecution, aimed at condemning and punishing reprehensible behaviours that are incompatible with life in society.

The judge (or sometimes, the jury) must take into account the evidence presented during the trial. The evidence must establish the defendant's guilt beyond all reasonable doubt.

Here are some examples of offences against a person:

- assault and battery;
- murder;
- sexual assault;
- identity theft.

Other offences involve objects, such as the possession of illegal drugs and theft by breaking and entering.

#### **❑ Penal matters**

Penal offences are intended to protect the public against the potentially harmful effects of certain behaviours. Offences are set out in provincial or federal laws or regulations, but do not constitute a criminal offence. Most of the rules of evidence governing these matters are set out in the Code of Penal Procedure, regardless of the law under which the offence arises.

These offences include:

- parking a vehicle in a prohibited area;
- a violation of the Highway Safety Code (for example, speeding);
- failure to comply with the *Automobile Insurance Act* (for example, driving a vehicle without a licence);
- operating a business without a permit.

## ❑ Civil matters

In civil matters, a person, a business or the state can ask the court to settle problems of a civil nature. Civil lawsuits deal with all the types of disputes that may arise between them.

For example, the court may be asked to rule on:

- a dispute concerning an inheritance;
- a dispute between neighbours (boundary marking, views, right of passage);
- a dispute concerning movable or immovable property;
- a dispute concerning the performance of a contract, such as a money owed, a house sale contract, an insurance contract or a construction contract;
- a dispute involving family matters, such as divorce or custody of children;
- an adoption;
- a challenge to an administrative decision, such as payment of an indemnity for a work-related accident by the Commission des normes, de l'équité, de la santé et de la sécurité du travail.

A party can also ask the court to be compensated for damages resulting from the fault of another person or a business. This is then a civil liability proceeding.

# 1.4 Progression of a case

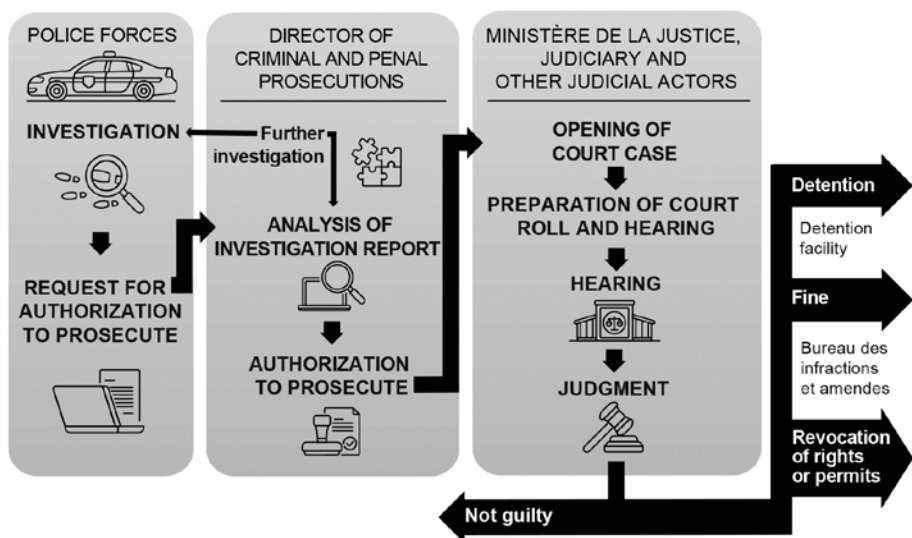
The progression of a judicial case varies depending on the nature of the offence or dispute at issue. The plan to modernize the justice system will act on all aspects of this complex progression.

## ■ Criminal cases

The illustration below shows the main stages of the progression of a criminal case.

ILLUSTRATION 2

### Progression of a criminal case



## ■ Police forces

In criminal matters, after investigation, a police officer arrests the person if they have reasonable grounds to believe that person has committed an offence. The police officer must clearly inform the arrested person of the nature of the offence of which they are accused. Usually, after arrest, the person is taken to a police station, served an appearance notice, and then released. In some cases, however, the person may be detained.

## ■ The Director of Criminal and Penal Prosecutions

After an exhaustive examination of the evidence gathered by the police, the prosecutors of the Director of Criminal and Penal Prosecutions decide whether the case should be brought before a court (authorization of prosecution).

— A prosecutor must be reasonably certain that it is possible to establish the guilt of the arrested person. If the evidence against the person arrested is insufficient, the prosecutor may decide not to take the case to court.

## ■ The Ministère de la Justice, the judiciary and other judicial actors

A case is created after a prosecutor has authorized a prosecution. The individual, whether he or she has been released or are being detained, must then appear before a judge. At this time, he or she pleads guilty or not guilty.

In the case of a guilty plea, the judge pronounces the sentence.

If the person decides to plead not guilty, the criminal and penal prosecuting attorney must disclose the evidence gathered by police during their investigation. In some cases, at the request of either party, a preliminary hearing may be held before a judge, who determines whether there is sufficient evidence to justify a trial. If not, the arrested person is released.

There are two types of trial:

- trial by judge: the evidence is presented before a judge, who alone renders a judgment;
- trial by judge and jury: the evidence is presented before a judge and jury; the jury then decides on the accused's guilt, but the judge determines the sentence in the case of a guilty verdict.

The role of the criminal and penal prosecuting attorney is to present evidence that will convince the jurors or the judge that the accused is guilty beyond a reasonable doubt.

## ■ Judgment

In the event of a guilty verdict, the sentence can be pronounced during the hearing or at a later date. In determining the sentence of a person found guilty, the judge takes numerous factors into account:

- the victim impact statement;
- the seriousness of the offence;
- whether violence was used;
- whether the offender has a criminal record;
- the person's age.

The judge can impose various sentences. For example, the judge may sentence the offender to serve a prison term, pay a fine or do community service. The sentence must be fair, reasonable and proportionate to the seriousness of the offence and the degree to which the offender was responsible.

On the other hand, if the person is acquitted, judicial proceedings end.

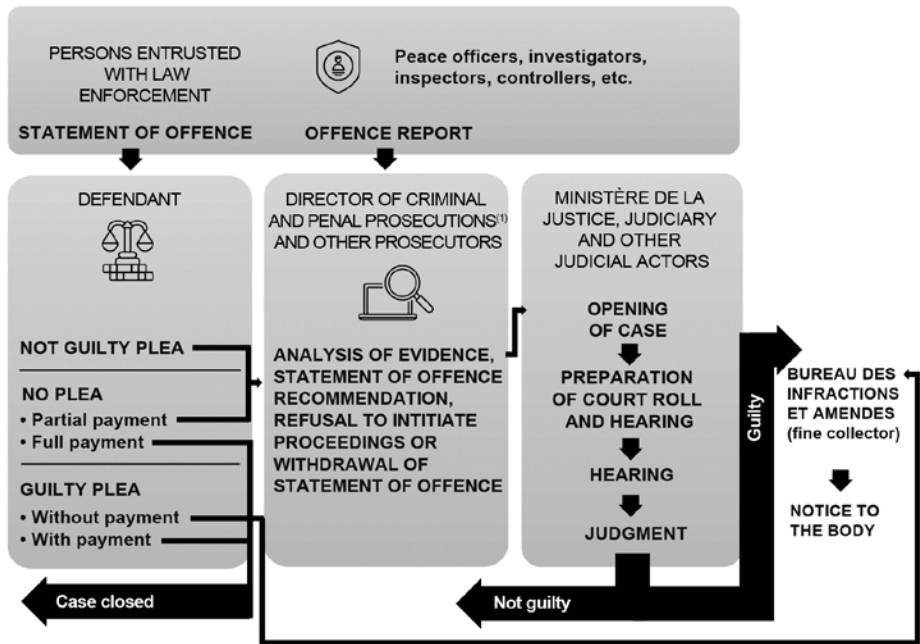
The criminal and penal prosecuting attorney or the accused may appeal, that is, request a review of the judgment. An appeal is heard by the Québec Court of Appeal. An appeal against the judgment of the Court of Appeal itself may be brought before the Supreme Court of Canada.

# Penal cases

The illustration below shows the main stages of the progression of a penal case.

ILLUSTRATION 3

## Progression of a penal case



(1) Bureau des infractions et amendes.

## Statement of offence

In penal matters, prosecution is initiated by the issuing of a statement of offence. This is a document that can be left on site (for example, a ticket for illegal parking), delivered in person, sent by mail or delivered by any other means permissible under the law. The statement of offence contains notes by the officer who recorded the offence and indicates the fine payable.

A reply form is attached giving the recipient the opportunity to indicate, within a 30-day period, whether or not they wish to plead guilty to the offence. If the person pleads guilty, they need only pay the fine indicated.

If the person pleads not guilty, they will receive a notice of hearing stating the date, time and place of the proceeding.



## ■ The Ministère de la Justice, the judiciary and other judicial actors

At the hearing, the prosecutor is called upon to present the evidence. Generally, the prosecutor files the statement of offence, which provides proof of its content. In special cases, witnesses may be called, for example the peace officer who issued the statement of offence. The defendant, who may represent himself or herself or be represented by an attorney, will have an opportunity to present a defence.

## ■ Judgment

After the arguments have been presented, the judge, presiding justice of the peace or clerk of the court may render judgment immediately or at a later date. If the person is found not guilty, no amount has to be paid and the case is closed.

Otherwise, the person found guilty must pay the amount of the original fine set out in the statement of offence as well as additional fees determined by the judge. The total amount is specified in the judgment and must be paid within 30 days following the decision, failing which measures to enforce the judgment may be undertaken.

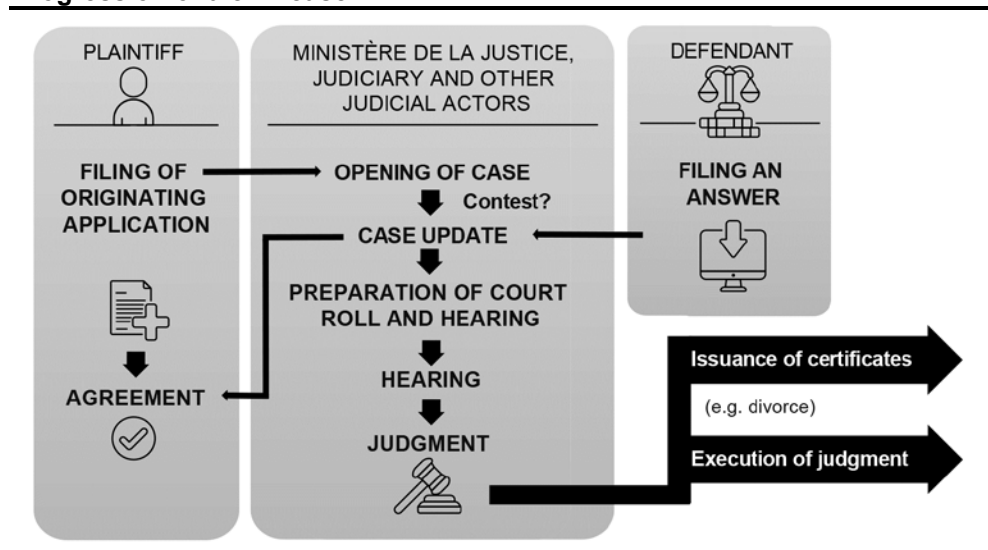
## □ Civil cases

Since January 1, 2016, all parties must consider private dispute prevention and resolution processes before taking matters to court. Dispute prevention and resolution processes offer a way to prevent or resolve a misunderstanding, problem, dispute or even a conflict. They can involve mediation, conciliation or arbitration.

The illustration below shows the main stages of the progression of a civil case.

ILLUSTRATION 4

### Progression of a civil case



With the consent of the parties, a settlement conference may be held at any stage of the judicial process. Presided over by a judge, this joint request often makes it possible to negotiate an agreement, preventing those involved from going to court and thus saving them time and money.

## ■ **Plaintiff**

When a case is taken to court, legal proceedings begin with the filing of an originating application. This must clearly set out the facts of the case and the conclusions sought (a monetary or other claim).

A summons is sent to the defendant, specifying how long the defendant has to file an answer and the consequences of failing to answer within the time limit.

## ■ **Defendant**

When a defendant's answer indicates that they intend to contest the application, they must set out key points for the rest of the trial. A case protocol covering the various steps and time limits is then agreed upon.

The defendant's answer must set out their version of the situation—all the grounds of law or fact on which they will contest the application.

## ■ **The Ministère de la Justice, the judiciary and other judicial actors**

Civil cases are heard by a judge. Most civil hearings are public except when the law requires them to be held *in camera* (behind closed doors), for example in family cases, or when the court so orders.

To present evidence, the plaintiff and the defendant may file written documents, call witnesses, or present material evidence.

After hearing the arguments of both sides and studying the record, the judge makes a decision based on a preponderance of evidence. This means that the judge will find for the party which, in the judge's opinion, gathered the most convincing evidence in support of its position.

## ■ **Judgment**

The judge may render judgment in open court, before the parties to the case. The judge may also take the case under consideration and render judgment at a later date. The judgment may be for the plaintiff (the application is granted) or for the defendant (the application is dismissed). The judge may also find for the plaintiff but on some issues only.

## 2. CRIMINAL AND PENAL CHALLENGES

The foundations of Québec's justice system are recognized. However, the system faces challenges, particularly in criminal and penal matters. The issues of access and delays are undermining citizens' confidence in the justice system.

- The *Jordan* decision handed down by the Supreme Court in July 2016 imposed time limits between the laying of charges and the end of the trial, except in exceptional circumstances.

The absence of substantial technological investment in the Québec justice system in recent years is also a major issue.

- There is a significant technology gap compared to certain private partners and other Canadian provinces and territories.
- This gap makes the justice system more cumbersome. The results are greater costs and additional delays for citizens and players in the system.

### 2.1 Strengthening public trust in the justice system

Since justice is a pillar of any democratic society, it is vital to preserve public confidence in the justice system.

Its efficacy must be sufficient to prevent:

- loss of dignity for victims, witnesses and their families;
- those accused of crimes—sometimes serious crimes—being released without trial.

Moreover, congestion in the courts and lengthy court delays are frequently criticized in the public sphere, fuelling mistrust of the justice system.

The system must provide fast, accessible justice so as to make Québec society safer.

## 2.2 Improving access and reducing delays

Access to justice and the duration of proceedings are central to the government's desire to transform the Québec justice system. More than 200 000 cases are tried every year, and the number is growing.

In 2017, 22% of criminal cases without a preliminary hearing took longer to try than the 18-month time limit set by the *Jordan* decision. With regard to cases with a preliminary hearing, for which the time limit is set at 30 months, the percentage rose to 36%.

However, thanks to recent investments made in response to *Jordan*, the median time to try cases is lower than in the preceding year. Specifically, it has fallen:

- from 8.3 months in December 2016 to 7.1 months in December 2017 for cases without a preliminary hearing;
- from 26.5 months in December 2016 to 21.3 months in December 2017 for cases with a preliminary hearing.

Of the penal cases tried, 33% took longer than 18 months in 2017. The median time for cases tried fell from 15.4 months in July 2016 to 14.5 months in January 2018.

The aim of the Ministère de la Justice and the various partners in the justice system is to have the lowest possible number of cases that take longer than 18 or 30 months to try and to have no stays of proceedings on the grounds of unreasonable delay.

TABLE 1

### Cases tried in the 2017 calendar year (numbers)

	Time limit	Cases tried	Cases tried outside the time limit	% of cases exceeding the time limit
<b>Criminal</b>				
– Without preliminary hearing	18 months	124 395	27 378	22
– With preliminary hearing	30 months	9 244	3 362	36
<b>Penal</b>				
	18 months	99 561	32 756	33

Source: Ministère de la Justice.

Five offences account for over half of cases tried by Canadian courts: theft, impaired driving, failure to comply with a court order, common assault and breach of probation. Homicides, by comparison, represent 1 in 10 000 cases, or 0.01%.

## ❑ Response to the *Jordan* decision

In July 2016, the Supreme Court of Canada stated in the *Jordan* decision that an unreasonable delay “denies justice to the accused, victims and their families, and the public as a whole.”<sup>8</sup>

The government’s first financial measure to reduce court delays was to invest \$175 million over four years. Furthermore, the bill to amend the *Courts of Justice Act* passed on December 9, 2016, increased the number of judges composing the Court of Appeal from 20 to 22, the Superior Court from 152 to 157, and the Court of Québec from 290 to 306.

The plan to modernize the justice system announced as part of the March 2018 Québec Economic Plan represents the government’s second response to reduce court delays.

### Review of the investments announced in the fall of 2016

The first phase of the plan to modernize the justice system, announced in 2016, made it possible to do the following by March 1, 2018:

- appoint 16 judges to the Court of Québec and permanently fund two per diem judge positions assigned to Nord-du-Québec;
- hire 69 prosecutors by the Director of Criminal and Penal Prosecutions as well as 108 individuals to support their work;
- recruit justice services support staff, for a total of 241 employees, of which 47 work in the Bureau des infractions et amendes;
- hire correctional services officers, special constables and probation officers, for a total of 117 individuals, as well as 17 individuals to support their work;
- make the new courtrooms in Montréal, Laval, Saint-Jérôme and Gatineau fully operational.

#### Investments in December 2016 to reduce court delays (millions of dollars)

	2016-2017	2017-2018	2018-2019	2019-2020	Total
Aboriginal tribunals and courts of justice	3.9	15.1	16.4	16.3	51.7
Director of Criminal and Penal Prosecutions	4.0	13.0	14.2	14.6	45.8
Other assignments	7.1	25.7	22.5	22.4	77.7
<b>TOTAL</b>	<b>15.0</b>	<b>53.8</b>	<b>53.1</b>	<b>53.3</b>	<b>175.2</b>

The 16 vacant seats on the Court of Québec, the appointments for which fall within the purview of the Québec government, were filled in spring 2017. The federal government is responsible for Court of Appeal and Superior Court appointments. To date, despite repeated appeals to the federal government, six of the additional Superior Court seats and one Court of Appeal seat have not been filled.

<sup>8</sup> Excerpt from the *R. v. Jordan* decision.

## ❑ The Special Penal Cases Division

Excessive delays have a direct impact on the victims of complex criminal acts and undermine their confidence in the legal system. To reduce these delays, the Court of Québec created the Special Penal Cases Division in 2014.

— These crimes may, for example, relate to the fight against tax evasion.

In 2016-2017, the Special Penal Cases Division recorded positive results.

Thus, compared with the previous year, the Division succeeded in:

— increasing the number of cases tried by 27.4% and the number of cases opened by 38.6%;

— increasing the number of hearings held by 25.1%;

— increasing the revenue collected by 13.0%.

The judges specially trained for these types of cases helped to manage the judicial proceedings and resources more effectively.

TABLE 2

### Penal Data

	2014-2015	2015-2016	2016-2017	Change from 2015-2016 to 2016-2017 (%)
Number of cases tried	110 156	107 390	136 794	27.4
Number of cases opened	114 291	109 281	151 505	38.6
Number of hearings held	181 408	176 727	221 096	25.1
Penal income collected (\$millions)	—	71.3	80.5	13.0

Source: Ministère de la Justice.

## Trying of criminal cases: Significant disparities within Canada

In 2015-2016 in Canada, the median time to process a case between the first appearance of a person before the court and the final decision in the criminal trial was 112 days (nearly four months). This length of time varies widely from one province or territory to the next. In Québec, the adjusted median time was 138 days.

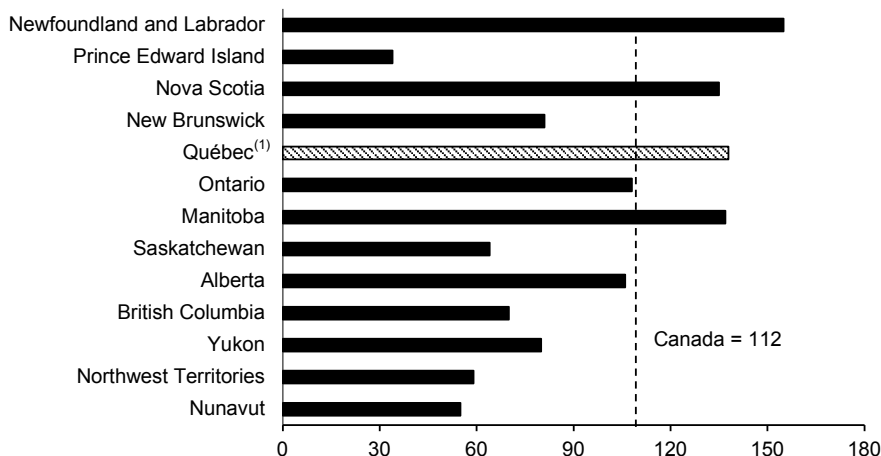
The results of Statistics Canada's work indicate that the time to process charges in Québec generally is longer than that observed in the other provinces and the territories.

- The adjusted median time to process charges increased from a low of 109 days in 2010-2011 to a high of 143 days in 2014-2015. This represents a change of more than 31%, while in the rest of Canada, it is 6%.

Over the last 10 years, the proportion of charges, for which the processing time exceeds the cap prescribed by the Supreme Court (18 months), before the provincial courts has remained relatively stable in most provinces and territories.

- However, this proportion has generally increased in Québec. In 2006-2007, it was approximately 10%; in 2015-2016, it had climbed to 17%.

### Median amount of time to complete charges in adult criminal provincial courts, by province or territory – 2015 2016 (number of days)



Note: Charge lengths are calculated based on the number of days it takes to complete a charge, from first appearance to final decision. The variations between the provinces and territories can be influenced by many factors, so any comparison must be made with caution.

(1) The median in Québec represents the estimated median for all the courts in the province had the data from municipal courts been provided as part of the survey.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey.

## 2.3 Closing significant technological gaps

Although some initiatives may have already been implemented over the last few years, the current justice system has several shortcomings.

- Parties must travel to the courthouse, even though some services could be provided remotely at a reduced cost.
- The minutes of proceedings are handwritten. Judgments are written on a computer, but then printed on paper and mailed to the parties. This way of doing things constitutes additional costs for taxpayers.
- Legal information is not available in real time, in addition to being inconsistent from courthouse to courthouse. Moreover, the available information is currently spread out in several systems, forcing data to be transcribed manually.
- The cases are increasingly complex (mega-trials, organized crime, corruption), and the evidence increasingly vast, especially in cases involving cybercrimes.

A modern justice system should allow for digital, paperless court record management (deposition, service, appearance, etc.) and for digital hearings to be held when possible.

- The system must be reliable, secure and effective so that citizens and stakeholders can use it in complete confidence. Moreover, the system should streamline reporting and performance evaluation.

### **An innovative project: Filing small claims applications online**

In November 2016, the Ministère de la Justice made an interactive form available online to facilitate the process of filing an application with the Small Claims Division of the Court of Québec and paying the associated court costs. This service improves the online service delivery to citizens. Indeed, this keeps citizens from having to travel to the courthouse and gives them the option of initiating the process at their convenience, without having to consider the courthouse's hours of operation.

Since this form became available, 18 402 small claims cases<sup>1</sup> were opened online and 11 869 cases were paid online, which represents 67.4% and 43.5%, respectively, of small claims applications. The form for the defendant to file a response and the one to pay costs online are expected to be made available in the summer of 2018.

<sup>1</sup> Data as at February 20, 2018.



### 3. AN ADDITIONAL \$500 MILLION TO MODERNIZE THE JUSTICE SYSTEM

The plan to modernize the justice system contains an additional \$500 million in investments between now and 2022-2023 to modernize processes by driving a cultural shift and to use technology to better serve citizens.

The plan sets out three objectives built around a strategy that will be implemented gradually:

- \$139 million to introduce innovative practices;
- \$289 million to bring the justice system in line with the latest technology;
- \$72 million to enable the justice system’s principal stakeholders to communicate information effectively.

Including the \$175 million over four years announced by the government in 2016 to increase the number of judicial resources (judges, prosecutors, correctional services officers, etc.) in order to reduce delays, the total investment amounts to \$675 million.

TABLE 3

**Investments contained in the plan to modernize the justice system**  
(millions of dollars)

	2017- 2018	2018- 2019	2019- 2020	2020- 2021	2021- 2022	2022- 2023	Subtotal	TI <sup>(1)</sup>	Total
Introduce innovative practices	—	12	21	33	36	33	135	4	139
Bring the justice system in line with the latest technology	8	24	34	39	45	45	195	94	289
Enable the principal stakeholders to communicate effectively	—	11	11	14	14	13	63	9	72
<b>TOTAL</b>	<b>8</b>	<b>47</b>	<b>66</b>	<b>86</b>	<b>95</b>	<b>91</b>	<b>393</b>	<b>107</b>	<b>500</b>

(1) Technological infrastructure.

## A framework for a successful plan

A framework will be put in place to ensure the success of the plan to modernize the justice system.

All technology projects will be subject to the *Act to reinforce the governance and management of the information resources of public bodies and government enterprises* (SQ 2017, c 28).

The Ministère de la Justice expects that:

- the purchasing strategy will include a competitive dialogue process to share the risk with the supplier selected, in particular with respect to the costs and deadlines;
- the authorities responsible for the project will be supported by senior strategic advisers who will have already completed major transformations;
- the design, execution and launch will be planned in detail to ensure the solution implemented performs and to anticipate the fallback mechanisms in the event of a problem;
- during the execution phase, each of the selected supplier's integration resources will be paired with a resource from the Ministère de la Justice to build internal expertise and ensure the sustainability of the solution.

Furthermore, the following measures will apply to the entire plan:

- outside auditors and auditors from the Ministère de la Justice, Secrétariat du Conseil du trésor, and Ministère des Finances will handle the monitoring, quality assurance, and auditing of the project;
- an extensive change management strategy will be put in place to involve all the partners affected by the transformation of the justice system;
- each partner will be responsible for planning and executing its project in such a way that its accountability will be strengthened. Efforts will be made to secure the electronic sharing of information among these partners.

### 3.1 \$139 million to introduce innovate practices

The plan to modernize the justice system provides for process changes consistent with the work begun by Table Justice-Québec, a panel comprising key players of the justice system. They agree on the need to make a cultural shift and recognize that they have a role to play in reducing delays in criminal and penal cases.

To this end, various measures focused on efficiency, equity, and collaboration among partners of the justice system will be put forth, including:

- offering alternatives to the conventional legal process by allowing offenders to take responsibility for their actions in other ways (e.g. community service, compensation or mediation);
- changing some police practices to accelerate and standardize the way cases are processed (e.g. the way evidence is presented or standardization of the investigative file);
- encouraging negotiation prior to a penal hearing to optimize court time;
- extending the use of videoconferencing for the hearings of defendants held at other stages of the legal process throughout Québec;
- offering those accused of certain infractions the possibility of receiving an offer to settle as soon as they appear before the court;
- introducing a technological platform that will provide citizens with better access to a centralized source of legal information. For citizens going through specific legal situations, it will provide guidance and direction by offering customized options and supporting them as they navigate the system.

TABLE 4

**Introduce innovative practices**  
(en millions de dollars)

	2017- 2018	2018- 2019	2019- 2020	2020- 2021	2021- 2022	2022- 2023	Subtotal	T1 <sup>(1)</sup>	Total
Planned investments	—	12	21	33	36	33	135	4	139

(1) Technological infrastructure.

## Practices being implemented elsewhere in Canada

Several Canadian provinces grappling with the difficulties relating to accessing the justice system and the delays have adopted practices and programs to deal with them.

On December 1, 2016, the Ontario government announced a series of measures aimed at improving the province's justice system to make it faster and fairer.

- The plan anticipated, in particular, the appointment of 13 additional judges to the Ontario Court of Justice, as well as the addition of 32 assistant Crown attorneys, 16 duty counsel and 26 court workers.

British Columbia began to undertake an extensive reform of the system in 2012. The Crown Attorneys' Office implemented a settlement program as early as the appearance before the court to encourage the settling of the case at this stage.

- Before appearing, defendants receive the best settlement offer available, that they must accept or refuse within the deadline granted.
- In addition, a program of administrative penalties for impaired driving was introduced under the *Motor Vehicle Act*, thereby reducing the volume of prosecutions at the provincial court.

On October 20, 2016, the Alberta Minister of Justice announced the creation of 10 new judicial positions to alleviate the pressure on the justice system following the *Jordan* decision.

Nova Scotia created a transformation group for penal justice with the sole objective of processing the delays.

- Each criminal case has a "*Jordan* ticket," allowing stakeholders to track the number of months that have passed.

In addition, the courts have increased the use of technology through videoconferencing and electronic disclosure.

### 3.2 \$289 million to bring the justice system in line with the latest technology

The investment of \$289 million to bring the justice system in line with the latest technology provide for, in particular:

- the implementation of a portal offering different online services to parties involved in a court record, including, among other things:
  - the remote filing of documents such as writs and exhibits,
  - the means to communicate electronically, allowing the parties to communicate effectively and efficiently with the court,
  - the ability to make an appointment remotely between the parties and the court;
- the digital management of court records, making it possible, in particular:
  - to remotely consult court records,
  - to allow the parties and the court to exchange information and documents electronically;
- to digitally manage courthouse hearings, including, in particular:
  - posting the rolls for hearings on a technological medium to make it easier to check the time and location of the hearing,
  - filing and presenting digital documents in the courtroom such as writs and exhibits,
  - making technological tools and equipment, such as work screens, available to ensure the hearing is efficient and to respond to the needs of the parties and the court;
- modernizing the required technological infrastructure to support the implementation of a portal and the digital management of court records and hearings, which includes, in particular:
  - the telecommunication links between the different physical locations to support the introduction of evidence during hearings or to optimize the use of videoconferencing,
  - the ability to store vast quantities of documents, videos and recordings relating to the court records.

TABLE 5

**Bring the justice system in line with the latest technology**  
(en millions de dollars)

	2017- 2018	2018- 2019	2019- 2020	2020- 2021	2021- 2022	2022- 2023	Subtotal	TI <sup>(1)</sup>	Total
Planned investments	8	24	34	39	45	45	195	94	289

(1) Technological infrastructure.

## Digital court office register

The court office is the place where the various documents and information needed to hold a trial are stored, such as the writs, the minutes, and the exhibits. Each court has its own office, which is maintained by the court clerks.

Citizens or lawyers go to the court office to file the documents needed to open a court record.

The dispute is then submitted to a judge, who will hear the parties concerned and render a decision. This decision is written within a judgment, which is saved in the court record at the court office along with the minutes of the various exchanges.

Currently, most documents are in hard copy. Therefore, the clerks must handle numerous documents and enter the information repeatedly in different computer systems, for example, in order to prepare the hearings or ensure various registers are maintained (minute-books, rolls of hearing, register of judgments, etc.). Managing the paper leads to delays, the risk of entry errors, and useless costs.

The creation of a digital court office register will allow all the information gathered to be grouped and managed by the court offices within the same database. This digital court office register will help to digitally manage the court records and the hearing, and everything that results from it, such as:

- the conduct of the hearing;
- the reservation of the room;
- the sending of the different notices to the parties;
- the exchange of information between the stakeholders and the court;
- the filing and introduction of digital documents in the courtroom;
- the writing of the minutes;
- the maintaining of the various registers.

The digital court office register will also help to effectively use this information.

- On the one hand, it will be possible to quickly access the required information in a secure manner without dealing with paper or needlessly travelling.
- On the other hand, it will be possible to analyze legal statistics and, especially, to calculate the time spent to process the cases in order to target situations that risk exceeding the deadlines prescribed by the *Jordan* decision.

## Technology partially implemented in other jurisdictions

Several jurisdictions are currently equipped with a system that allows writs to be filed online.

- In the United States, these changes were initiated in 2001 and 50 states can file and easily access their documents online.
- Beginning in 2005 in Canada, British Columbia was a precursor when it came to filing small claims online. Next, other improvements were implemented, in particular, to extend this way of doing things to all the courts.
- Ontario made improvements by offering the possibility of filing small claims electronically in 2015, then, in 2017, civil cases. The plan is to extend this service to defence and other documents.
- As for Québec, it acquired this technology in 2016 to handle small claims, as well as for the Administrative Labour Tribunal and the Régie du logement.

### Online filing of writs and documents

Country/province	Court/matter	Since
United States	50 states (various matters)	Implemented between 2001 and 2015
	Supreme Court of the United States	November 2017
British Columbia	Small claims	2005
	Civil matter	2008
	All the courts and all matters	2013
Ontario	Small claims (the application)	2015
	Civil matter (the application)	May 2017
Québec	Small claims	November 2016
	(application: answer to follow)	
	Administrative Labour Tribunal	2013
	Régie du logement	December 2016

In 2011, British Columbia became the first province to institute “paperless” trials. Ontario made similar advances in 2017 with the Condominium Authority Tribunal. In Québec, the Financial Markets Administrative Tribunal introduced its virtual court eTribunal in May 2017 to offer the completely secure electronic processing of court records.

### “Paperless” trials

Country/province	Court/matter	Since
British Columbia	Civil matter (first hearing)	2011
	Court of Appeal (first hearing)	2012
	Civil Resolution Tribunal (CRT) regarding co-ownership matters	2016
	Civil Resolution Tribunal (CRT) regarding civil matters – \$5 000	2017
Ontario	Condominium Authority online tribunal	November 2017
Québec	Financial Markets Administrative Tribunal	May 2017

### 3.3 \$72 million to enable effective communication of information between the principal stakeholders

All the stakeholders present in the Québec justice system use the information produced by their partners, hence the need to enable a continual exchange of information in real time.

The police submit an investigation report containing the evidence gathered to the criminal and penal prosecuting attorneys.

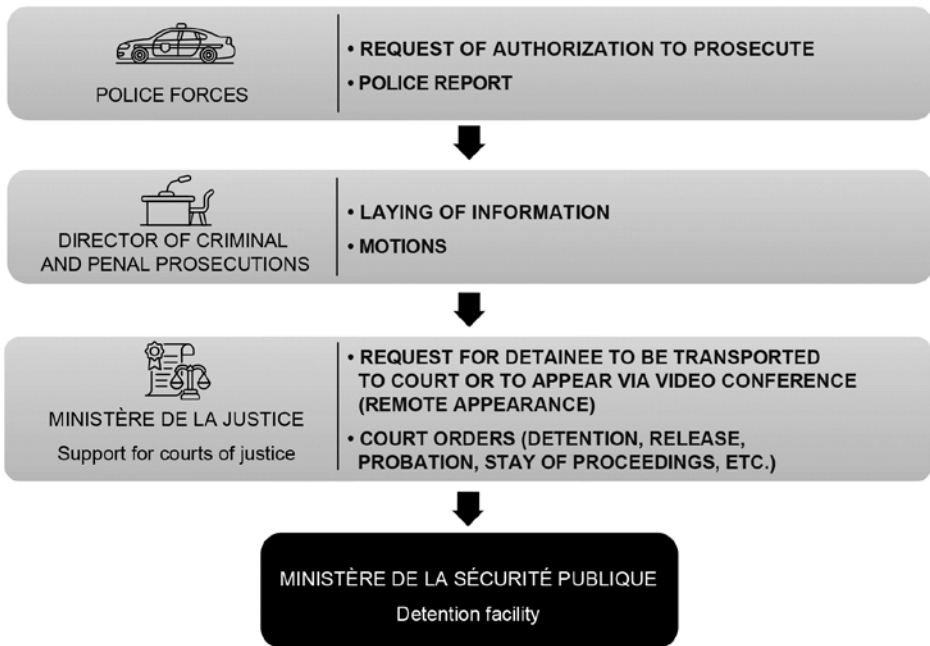
They assess this evidence and decide whether to press charges or not.

Information is then laid at the courthouse and a court record opened.

Once a judgment is rendered and a sentence pronounced, the decision must be sent to the detention facility, if applicable.

#### ILLUSTRATION 5

#### Electronic exchange of information between the principal justice stakeholders





❑ **GESTE and DACOR 2.0 projects**

The plan includes investments of \$72 million to develop GESTE and link two essential technology projects by partners, GESTE and DACOR 2.0,<sup>9</sup> to enable the integrated flow of information between the partners.

- GESTE, a project of the Director of Criminal and Penal Prosecutions, involves putting in place the processes and tools that allow police forces to send evidence and to manage it electronically. This project will allow the Director of Criminal and Penal Prosecutions to analyze the evidence and make it available to all stakeholders concerned.
- DACOR 2.0, a project of the Ministère de la Sécurité publique, involves instituting computerized correctional records, thereby improving their accessibility, quality, and security, and the exchange of information.

TABLE 6

**Enable the principal stakeholders to communicate information effectively**  
(millions of dollars)

	2017- 2018	2018- 2019	2019- 2020	2020- 2021	2021- 2022	2022- 2023	Subtotal	TI <sup>(1)</sup>	Total
Planned investments	—	11	11	14	14	13	63	9	72

(1) Technological investments.

<sup>9</sup> Correctional administrative files.

### 3.4 Expected benefits

Once it is fully implemented, the plan will primarily ensure that:

- no case becomes the subject of a termination of proceedings due to unreasonable delays according to the *Jordan* decision;
- citizens have greater access to the justice system;
- citizens can access their case file electronically;
- legal stakeholders can communicate information and documents electronically to ensure the justice system is efficient;
- hearings are paperless, benefiting from the latest in digital technology;
- the risk of error linked to managing paper and the repetitive, manual entry of volumes of data is eliminated;
- the technological means in place can be applied to civil matters in a timely manner;
- costs are reduced and the legal process is simpler, to the benefit of citizens.

Finally, the plan will enable citizens to regain complete confidence in the Québec justice system.

Significant benefits for victims
<p>A more efficient justice system will have an impact particularly on crime victims, who feel a sense of injustice because of how long these trying proceedings take. Indeed, reducing delays in criminal cases will minimize the stress experienced by victims and their loved ones, and allow them to feel safe and more quickly move past this painful chapter in their lives. Not only does incorporating technology into the legal process permit efficient communication, but it can also eliminate the need to appear in person in certain cases, particularly for victims.</p> <p>Victims are of prime concern for the government. In fact, in December 2017, the Minister of Justice announced the addition of 15 resources for Crime Victims Assistance Centres (CAVACs) to help the victims of sexual violence. The Director of Criminal and Penal Prosecutions has also committed to taking measures to support victims as part of the Government Strategy to Prevent and Counteract Sexual Violence.</p>

# APPENDIX 1: DETAILS OF PLANNED INVESTMENTS

## Planned investments

The plan to modernize the justice system contains an additional \$500 million in investments between now and 2022-2023:

- \$139 million to introduce innovative practices;
- \$289 million to bring the justice system in line with the latest technology;
- \$72 million to enable the principal stakeholders to communicate information effectively.

TABLE 7

**Investments contained in the plan to modernize the justice system**  
(millions of dollars)

	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	Subtotal	TI <sup>(1)</sup>	Total
Introduce innovative practices	—	12	21	33	36	33	135	4	139
Bring the justice system in line with the latest technology	8	24	34	39	45	45	195	94	289
Enable the principal stakeholders to communicate information effectively	—	11	11	14	14	13	63	9	72
<b>TOTAL</b>	<b>8</b>	<b>47</b>	<b>66</b>	<b>86</b>	<b>95</b>	<b>91</b>	<b>393</b>	<b>107</b>	<b>500</b>

(1) Technological infrastructure.

## ❑ Distribution of investments between partners

The additional investments contained in the plan to modernize the justice system will be divided among the partners as follows:

- \$373 million for the Ministère de la Justice;
- \$72 million for the Director of Criminal and Penal Prosecutions;
- \$55 million for the Ministère de la Sécurité publique.

TABLE 8

### Distribution of investments by partners

(en millions de dollars)

	2017- 2018	2018- 2019	2019- 2020	2020- 2021	2021- 2022	2022- 2023	Subtotal	TI <sup>(1)</sup>	Total
Ministère de la Justice	8	31	48	59	67	63	276	97	373
Director of Criminal and Penal Prosecutions	—	11	11	13	14	14	63	9	72
Ministère de la Sécurité publique	—	5	7	14	14	14	54	1	55
<b>TOTAL</b>	<b>8</b>	<b>47</b>	<b>66</b>	<b>86</b>	<b>95</b>	<b>91</b>	<b>393</b>	<b>107</b>	<b>500</b>

(1) Technological infrastructure.

## ❑ Anticipated financing

The financing required to execute the plan will come from:

- \$347 million in program spending of the Ministère de la Justice and Ministère de la Sécurité publique portfolios;
- \$46 million from the Ministère de la Justice Register Fund surplus;
- \$107 million earmarked in the 2018-2028 Québec Infrastructure Plan.

TABLE 9

### **Distribution of financing** (en millions de dollars)

	2017- 2018	2018- 2019	2019- 2020	2020- 2021	2021- 2022	2022- 2023	Subtotal	TI <sup>(1)</sup>	Total
New investments	2	40	51	78	90	86	347	96	443
Contribution from the Ministère de la Justice Register Fund	6	7	15	8	5	5	46	11	57
<b>TOTAL</b>	<b>8</b>	<b>47</b>	<b>66</b>	<b>86</b>	<b>95</b>	<b>91</b>	<b>393</b>	<b>107</b>	<b>500</b>

(1) Technological infrastructure.



# APPENDIX 2: KEY STEPS OF IMPLEMENTATION

The illustration below shows the key steps in the implementation of the plan to modernize the justice system:

- introduction of innovative practices beginning in 2018-2019 and completed by 2020-2021;
- preparatory work in 2017-2018, and continuing until 2019-2020, to improve processes, establish needs and acquire a commercial software package;
- roll-out of the Ministère de la Justice’s technological solution beginning in 2020-2021 and continuing over three years; the delivery sequence will be established with the selected supplier;
- completion of the Director of Criminal and Penal Prosecutions’ project, and alignment of partners’ projects with the Ministère de la Justice’s technological solution.

ILLUSTRATION 6

## Key steps in the implementation of the plan to modernize the justice system

