CANADA-WIDE ANALYSIS OF OFFICIAL LANGUAGE TRAINING NEEDS IN THE AREA OF JUSTICE

Report

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Submitted to:

Department of Justice Canada

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Note: In this text, the masculine form is used to designate either gender.

EXECUTIVE SUMMARY

This report presents the findings of the Canada-wide analysis of official language training needs in the area of justice undertaken by the Department of Justice Canada in September 2008. The analysis follows directly from the five-year, $20-million investment announced by the federal government in the context of the *Roadmap for Canada's Linguistic Duality 2008-2013*. The purpose of this investment is to provide training for individuals currently employed in the justice system, and to train and recruit young bilingual Canadians interested in a career in the justice system. The particular focus of this study is criminal law.

The methodology of this study consists of document and literature reviews, an analysis of socioprofessional data, interviews with training and justice stakeholders in every province and territory, four case studies and a panel of experts.

Obligations to offer services in both official languages

As jurisdiction for enacting legislation governing criminal procedure rests with the Parliament of Canada, it is Parliament that grants all Canadians the right to use English or French in proceedings related to a criminal offence. Under Part XVII of the *Criminal Code* (sections 530 to 533.1), the provinces and territories must establish criminal courts that are institutionally bilingual and reflect true equality of English and French. Moreover, a dereliction of the duty enshrined in the *Criminal Code* is to be deemed a substantial wrong, not a minor irregularity.

Training needs

This needs study was conducted in a context in which a significant proportion of justice stakeholders have a basic ability to communicate in both official languages. In all jurisdictions except Quebec, no less than 29% of judges and 25% of lawyers state that they are able to conduct a conversation in both official languages. In Quebec, no fewer than 9 out of 10 judges and more than 8 out of 10 lawyers state that they are able to converse in both official languages. The level of ability to communicate in both official languages is not as high, however, in the support functions, such as clerks and bailiffs.

The ability to conduct a conversation in both official languages does not necessarily indicate a command of the legal vocabulary needed to function in an institutionally bilingual court. Rather, the ability to conduct a conversation in both official languages is the first step towards achieving such an outcome. The second step is for justice stakeholders to become proficient in the legal vocabulary of their area of employment. The third and final step is the appropriation of legal *discourse* in both official languages, that is, the ability to properly apply the acquired legal vocabulary.

The basic training provided in preparation for the various justice occupations only partially increases the ability of courts to operate in a way that is institutionally bilingual. As very few programs of study offer instruction in both official languages, on-the-job training is extremely important. For some stakeholders, on-the-job training, be it formal or informal, is the only means available to them to develop a sufficient command of the legal discourse of their particular

profession in both official languages. To date, professional associations, some government agencies and Canada's jurilinguistic centres offer some on-the-job training. The current supply of training activities does not, however, meet the demand. Bilingual tools and reference material on legal practice do exist but in limited supply, and stakeholders are still in great need of such resources.

Priority strategies

The proposed actions presented in this report are based on four guiding principles. First, it is important to recognize that the federal investment alone cannot meet all the training needs; this investment must therefore be well targeted if it is to help achieve the desired outcomes. *Second*, it must be recognized that official language training activities in the area of justice can bring about a systemic correction to meet an intermittent need in the minority official language. *Third*, the federal government's action should systematically target stakeholders who are already functional in both official languages. *Finally*, it seems essential to link intensive learning activities and regular learning activities since, for the individual, the success of one largely determines the success of the other.

Legal training

One area deserving particular attention is the legal training that is currently available. Law schools could be asked to play a much more active role in training law students in the application of both official languages to the practice of law. This expanded role would also more truly reflect the language profile of the young Canadians who enrol in law schools, a growing number of whom are already able to communicate in both official languages.

Proposed strategy 1: The country's law schools should consider offering courses specifically in the practice of law in both official languages. Partnerships between law schools would seem entirely appropriate in the circumstances.

Legal translators and court interpreters

There seem to be no major problems in accessing quality legal translation services. Several jurisdictions in the country rely on private companies for the translation of legal documents, while others employ full-time translators. Court interpreters are an entirely different matter. The difficulties that some Canadian jurisdictions have accessing qualified interpreters are significant, if not disturbing. Access to qualified interpreters in some regions is uncertain, and the ability of a general interpreter (no specialization in law) to function effectively during a trial is questionable. Since interpreters are systematically used in bilingual proceedings, this problem merits the attention of stakeholders.

Proposed strategy 2: Access to qualified court interpreters in every region of the country should be the focus of a joint strategy of justice stakeholders (especially court administrators) and interpreters associations, including the Canadian Translators, Terminologists and Interpreters Council.

The issue of support functions

A number of court support functions require no particular basic training. It is largely up to the individual employer to determine the qualifications needed for the positions, which include clerks, court reporters and registry officers. However, programs that specifically target these occupations are beginning to emerge; at present, none are offered in French.

Given the pivotal role of these various occupations, it is important to address this issue, while recognizing that the main objective of the initiative is to train individuals to be able to work in both official languages. While the establishment of programs in the minority language may be one avenue worth exploring, it is not the only one open to consideration. The inclusion of modules on bilingual court proceedings within existing majority language programs could also be considered.

Proposed strategy 3: It would be worthwhile including modules specifically on bilingual court proceedings in the training programs for clerks, court reporters and registry officers.

Bilingual instruction for legal assistants

Legal assistants are, in some respects, a special class of support staff, since in Quebec they are employed predominantly in law firms and notary offices. Their role, which is to prepare various documents and maintain regular contact with clients, is a vital one. Their capacity to work in both official languages can determine the ability of the lawyer or notary who employs them to take on bilingual cases.

The training programs for legal assistants currently offered at Cité collégiale and Collège Boréal are a model in this regard. Although instruction is in French, both programs are designed to give students a bilingual command of legal vocabulary. It would be well worth expanding this model.

Proposed strategy 4: Institutions that offer training for legal assistants would do well to work in partnership with each other and directly with Cité collégiale and Collège Boréal to expand student access to training designed specifically to give them a bilingual command of legal vocabulary.

Bailiffs and probation officers

Bailiffs and probation officers currently have access to training programs, but these programs are not qualification prerequisites unless the employer makes them a condition of hiring. In the case of probation officers in particular, they consist mainly of university courses in criminology, which are available in every region of Canada.

As in the case of lawyers, bailiffs and probation officers have access to programs in either English or French. Much of the problem lies in the fact that, in both instances, these programs do not necessarily give students a better bilingual command of legal vocabulary. For example, many probation officers have difficulty preparing a pre-sentence report in their second language.

Proposed strategy 5: Criminology programs should consider offering courses specifically on professional practice in both official languages. The partnering of various universities would also avoid duplication of effort in this area.

For on-the-job training, intensive learning activities are essential. Two such activities seem especially promising: applied training, and exchange programs.

Intensive applied training

Intensive applied training is probably one of the most important strategies for increasing stakeholders' bilingual proficiency in legal vocabulary. The success of this type of training lies in its ability to offer modules tailored to each category of stakeholder while also lending itself to the recreation of scenarios involving the interaction of all stakeholders. This training, lasting several days, can combine technical training sessions tailored to each group (lawyers, clerks, registry officers, etc.) with mock trials in which the participants play their respective roles.

Obviously, the problem for some stakeholders is simply lack of access to such training. The time has come to broaden this access.

Proposed strategy 6: The model of Ontario's French Language Institute for Professional Development should be extended to make it accessible across Canada. it seems imperative to adapt the modules to the needs of both lawyers and support staff, either by broadening the terms of reference of the current Institute in Ontario, or by replicating the model in other regions.

Exchanges

While Canada has a long tradition of exchanges in education and on-the-job training, the application of this model to the field of justice has so far been limited. Federal judges are virtually the only ones who have used this model regularly to improve their bilingual proficiency in legal vocabulary. It seems important at this time to offer such a program to other stakeholders.

Proposed strategy 7: Key stakeholders in the area of criminal law would benefit from exchanges allowing them to improve their bilingual command of criminal law vocabulary.

The implementation of such initiatives would undoubtedly require the partnering of a number of stakeholders. An entity should therefore be created that would be given responsibility for managing the exchanges (taking applications, assigning exchanges, preparing activity reports, etc.). The provincial and territorial governments should also be directly involved in managing such a program. The costs of exchange activities should be clearly defined. The federal investment could thus support the coordination and organization of exchanges, but participants would continue to be paid by their respective employer.

Again with regard to on-the-job training, regular activities play an important role by enabling stakeholders to maintain and improve their bilingual proficiency in legal vocabulary.

Targeted training sessions

Targeted training sessions, lasting from half a day to two days, have proven effective but their availability is limited. Broader access to such training would therefore seem to be a priority.

Proposed strategy 8: The various relevant stakeholders should develop a joint strategy for broadening access to targeted training sessions.

A number of stakeholders have been offering this type of training for some years. It is therefore obvious that the supply of such workshops does not meet the demand. In particular, there is a need for more trainers to meet this demand. However, the recruitment of qualified trainers poses a problem that needs to be addressed.

Proposed strategy 9: The recruitment and training of qualified trainers to teach targeted sessions should receive special attention.

Like intensive training activities, targeted training sessions should cover court support functions. Traditionally, these sessions have targeted prosecutors and lawyers in private practice. While these groups remain a target clientele, it is equally important to provide training in bilingual legal vocabulary to clerks, probation officers, bailiffs and legal assistants, to mention only the main support functions.

The training sessions currently offered make limited use of new information technologies. The integration of new information technologies could prove helpful, even essential, to expanding this type of training.

Proposed strategy 10: Training stakeholders should consider increasing the IT content of their targeted training sessions.

Learning tools

Tools for learning bilingual legal vocabulary are virtually non-existent. At present, justice stakeholders have access to a few bilingual reference tools on legal vocabulary. While these tools have an important role to play, they are not learning tools in the pedagogical sense.

Proposed strategy 11: Training stakeholders should consider developing learning tools that could be used independently of formal training sessions.

The distinctive feature of the tools contemplated here is that they should be useable independently of any structured training. In other words, the goal would be to develop tools that justice stakeholders could continually consult to improve their bilingual legal vocabulary.

The hiring criteria of certain positions

The hiring process is especially important for ensuring that new hirees are at least functional in both official languages. Once hired, these employees can, if necessary, participate in training activities to improve their command of legal vocabulary in both official languages. The language criterion is increasingly used in recruiting new stakeholders. Even for positions not formally

designated as bilingual, it seems desirable to target individuals with at least a functional knowledge of both official languages.

The role of promoting services offered in both official languages

Along with training activities, stakeholders should continue activities for promoting access to justice in both official languages. Some organizations, such as the associations of French-speaking jurists, have introduced promotional activities in recent years. It would seem desirable to expand the range of stakeholders active in this area to involve certain groups, such as the judiciary, more directly. If persons appearing before the courts are still reluctant to ask to be served in their language, it is primarily because they fear retaliation from the justice system on the grounds that such a request is bothersome and unreasonable coming from someone who is proficient in both official languages. This study found, on the contrary, that there is a desire at the highest levels of the judicial system, in every region of the country, to give full effect to the official language provisions of the *Criminal Code*. In fact, it is necessary to avoid the pitfall of stepping up training activities and thereby increasing the capacity to operate in both official languages, without dispelling this view on the part of some persons appearing before the courts that proceeding in the minority language is a "problem". The judiciary could therefore play a more active role in informing citizens of their language rights at law, without compromising their judicial independence. For example, if the chief judge of a provincial court were to publicly encourage the parties to a proceeding to assert their language rights, this could have a significant impact.

The management structure

The five-year, $20-million federal training investment should have the proper administrative oversight. It therefore seems desirable for the Department to establish a training advisory committee with the principal mandate of validating and guiding the Department's training activities. The role of the advisory committee would be to assist existing committees in managing the Access to Justice in Both Official Languages Support Fund. The advisory committee should be composed of a few individuals with recognized training expertise and applied knowledge of the institutional network in this area.

Still regarding management, the fund allocation criteria should favour partnerships between various stakeholder groups and between groups working in minority language communities and those working in majority language communities. In many ways, bilingualism is the issue, and it is therefore important for all stakeholders to work closely with one another to exchange practices, share expertise and, above all, avoid duplication of effort.

1.0 Introduction

This document is the report of the Canada-wide analysis of official language training needs in the area of justice undertaken by the Department of Justice in September 2008.

The needs analysis follows directly from the *Roadmap for Canada's Linguistic Duality 2008-2013*, tabled in June 2008 by the federal government. This federal initiative, covering health, immigration, economic development, arts and culture, and justice, examines specifically the issue of justice training:

> In the area of justice, the Roadmap aims to intensify training efforts to improve language skills of those working in the justice system, be they court clerks, court reporters, justices of the peace or mediators. Justice Canada will implement a new justice training initiative to encourage young bilingual Canadians to pursue careers in these areas.[1]

The Roadmap provides for an investment in training of $20 million over five years, covering the period 2008-2009 to 2012-2013. This study will enable the Department of Justice Canada to effectively direct this new investment to meet the needs of justice stakeholders. To this end, the Department of Justice Canada identified four areas of focus for the study:

- development of those already working in the justice system.
- collaborative development with colleges and universities of a course program for young bilingual Canadians who want to work in the system;
- development of training and development support tools for justice stakeholders;
- a promotional and recruitment strategy targeting young bilingual Canadians.

While the findings apply to several areas of law, it should be pointed out that this study concerns primarily criminal law. This approach is consistent with the division of powers between the federal and provincial governments.

The report is divided into seven sections, including this Introduction. Section 2.0 presents the purpose of the study, including a description of the key players and the obligations relating to the delivery of justice services in both official languages. Section 3.0 describes the methodology, including the research issues and the methods used to investigate them. Section 4.0 concerns the various needs identified in the course of collecting the data, according to the nature of the work done by the stakeholders and their contacts with the public. Based on these findings, section 5.0 describes the most promising strategies for achieving the objectives of this new federal investment. Section 6.0 deals specifically with the management of the new Support Fund, particularly the coordination model for the effective application of this training investment. Finally, section 7.0 is the conclusion.

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[1] Government of Canada. (2008). *Roadmap for Canada's Linguistic Duality 2008-2013: Acting for the Future*. Ottawa, p. 11.

The research team would like to thank all those who participated in the study consultations. The issues investigated by this needs analysis are, at best, only partially documented. The information provided and views expressed during the consultations by stakeholders in every province and territory therefore proved indispensable.

2.0 The training context in the area of justice

This section provides an overview of criminal court proceedings and the obligations relating to the delivery of services in both official languages. Obviously, it is not intended to provide a complete picture, but rather a context for better understanding the training needs and the recommended means of addressing them.

2.1 The main stakeholders[2]

Every year in Canada, numerous *Criminal Code* offences are committed, mobilizing many stakeholders in the justice system. The most recent statistics on crime and criminal courts clearly show the scope of their work:

- In 2007, Canadian police services reported 2.3 million offences under the *Criminal Code*, covering violent crimes, property-related crimes and other *Criminal Code* offences such as mischief, bail violations and disturbing the peace.[3]

- In the same period (that is, in financial year 2006-2007), criminal courts tried just over 370,000 cases, involving a million charges. Property offences (24%), justice-related offences[4] (24%) and offences against the person (20%) accounted for over two-thirds of the charges laid.[5]

- Nearly all cases involving a *Criminal Code* offence are tried in provincial court. It is estimated that superior courts (commonly known as the Court of Queen's Bench, the Supreme Court, or, in Quebec, the Superior Court) try about 1% of *Criminal Code cases*, usually involving more serious crimes.[6]

While a criminal court case can take many twists and turns, there are generally four main stages, shown in Figure 1

(page 5):

- *Charge*: It is essentially the charge that sets in motion the process that may lead to a criminal court proceeding. Usually, a police officer lays an information charging an individual with commission of a crime. In some circumstances, other enforcement authorities may also lay an information. The charge may or may not involve an arrest. If warranted in the circumstances, a police officer may issue the accused a summons to

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2 For a brief description of criminal law procedure, see Department of Justice Canada. (2005). *Canada's System of Justice*, Ottawa; and Department of Justice Canada. *A Crime Victim's Guide to the Criminal Justice System*, Ottawa.

3 Canadian Centre for Justice Statistics. *Crime Statistics in Canada, 2007*. Ottawa. Catalogue no. 85-002-X, Vol. 28, no. 7.

4 Offences against the administration of justice include failure to appear, breach of probation, being unlawfully at large and failure to comply with an order.

5 Canadian Centre for Justice Statistics. Adult criminal court statistics, 2006/2007. Ottawa. Catalogue no. 85-002-XIE, Vol. 28, no. 5.

6 *Ibid*.

appear in court to answer to a charge, in which case no arrest is made. When an arrest is made, the police must first inform the detainee of his right to speak to a lawyer and must do their utmost to have the detainee brought before a judge or justice of the peace as soon as possible for a bail hearing. This hearing will determine whether or not the accused will be held in detention until his first court appearance.

- *First appearance*: Once the police have laid an information against an individual, the Crown takes over the case and decides whether or not there are grounds to prosecute. If there are, the Crown must generally decide whether to proceed by summary conviction or by indictment.[7] Indictment is reserved for more serious crimes. For example, in a case of impaired driving, it may be desirable to distinguish between someone charged with driving with a blood alcohol level of 10 milligrams per 100 millilitres of blood over the legal limit and someone driving their vehicle in a school zone, in the afternoon, with a blood alcohol level nearly three times the legal limit. The penalty for an indictment is harsher than the penalty for a summary conviction, and it is up to the Crown to decide on the appropriate procedure.

  The first court appearance of the accused will also be conducted according to the type of court hearing the case. Certain offences must be tried by a provincial court judge. In those cases, the accused enters a plea of guilty or not guilty to the charge against him. Certain very serious offences, such as murder, must be tried by a superior court judge. In those instances, a preliminary inquiry will first be held before a provincial court judge, who will determine whether or not there is sufficient evidence to warrant a trial. The accused must enter a plea of guilty or not guilty at the conclusion of the preliminary inquiry. In other instances, the accused can choose to be tried by a provincial court judge or a superior court judge, with or without a jury. This choice will determine whether or not a preliminary inquiry will be held.

- *Trial*: The trial is the occasion for the Crown and the accused (whether or not he is represented by a lawyer) to present their respective versions of the facts and, if there is a conviction, to recommend an appropriate sentence based on the circumstances of the crime. Criminal trial proceedings can be very complex and involve a number of participants besides the judge and lawyers, such as representatives of crime victim services or probation officers, and the latter may be asked to prepare a pre-sentence report if there is a conviction.

- *Follow-up*: Obviously, follow-up depends on whether or not the accused is found guilty of the offence for which he has been tried. If the verdict is not guilty, the accused is simply released from detention. If the accused is found guilty, the judge then has several sentencing options, such as a discharge (absolute or conditional), a suspended sentence with probation, a fine or incarceration (followed by a period of probation).

[7] While some *Criminal Code* offences may proceed only by summary proceeding or only by indictment, most offences are "dual procedure" offences in that the Crown may decide to proceed by either method, depending on the circumstances.

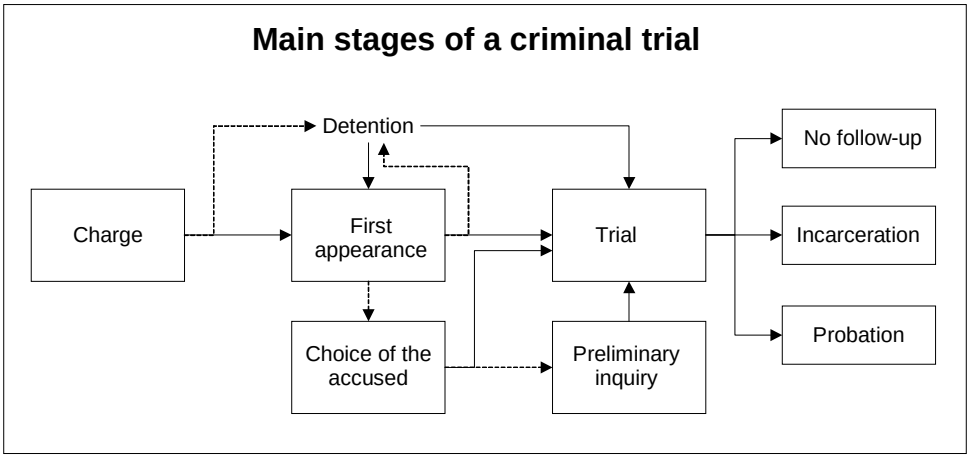

Figure 1

Figure 1 lists the main stakeholders of the judicial system who will be involved at various stages of a criminal trial. We would point out that this list is not exhaustive.

Figure 1: Role of stakeholders, by stage of a criminal trial

Key stakeholders	Stages of the trial					
	Charge	Detention	First appearance	Trial	Incarceration	Follow-up
Police officer	X	X		X		
Judge			X	X		
Justice of the peace			X			
Lawyer (prosecution)			X	X		
Lawyer (defence)			X	X		
Clerk			X	X		
Court reporter			X	X		
Bailiff/Sheriff			X	X		
Correctional Service		X			X	
Probation officer				X	X	X
Registry officer				X		

The exact role of each stakeholder varies depending on the circumstances. These roles are briefly defined as follows:

- *Police officer*: As a rule the police officer is responsible for laying the charge, which may or may not involve an arrest.[8] It is therefore the police officer who has the initial contact with the accused. In Canada, there are a number of police forces that report to municipal, provincial or federal authorities. The Royal Canadian Mounted Police (RCMP) sometimes provides policing services under contract to a provincial or municipal government. The police officer also participates at the trial relating to the charge he has laid as a witness. The police officer is often called upon to play a major role in explaining

[8] In Quebec and British Columbia, the decision to lay a charge rests with the Crown rather than with the police authorities.

to the victims of crime the judicial process, a process that is very often unknown to the victims.

- *Judge*: The judge is the central authority of all criminal trials. A criminal case will first be heard by either a provincial court judge or a superior court judge, depending on the procedure chosen by the Crown prosecutor or the accused (summary conviction or indictment before a judge only or before a judge and jury). We would again point out that the vast majority of criminal trials are tried by a provincial court judge.

- *Justice of the peace*: The role of justice of the peace is changing significantly and varies depending on the location and the jurisdiction. Basically, it is the job of the justice of the peace to further the efficient administration of justice by presiding at certain stages of a trial and rendering certain decisions.[9] Since a justice of the peace does not necessarily have legal training, his decisions are based essentially on an interpretation of the facts presented to him, and not on the analysis of a point of law. Thus, in criminal law, and depending on the jurisdiction, the justice of the peace may be asked to preside at the accused's first court appearance, to rule on his release on bail or to issue search warrants. He may also preside at certain preliminary inquiries.

- *Lawyer for the prosecution*: The lawyer for the prosecution, commonly known as the Crown prosecutor, represents the State and is responsible for proceeding against the accused on an indictment. It is mainly provincial Crown prosecutors (accountable to the provincial attorney general) who prosecute a *Criminal Code* offence. The role of federal Crown prosecutor usually centres on prosecutions under other federal laws, such as the *Controlled Drugs and Substances Act*. In the three territories, it is federal Crown prosecutors who are responsible for prosecuting offences under the *Criminal Code*.

- *Lawyer for the defence*: An accused may represent himself in court or rely on the services of a lawyer. If he uses a lawyer, the accused may retain a lawyer in private practice and pay the costs himself, or he may resort to legal aid. If legal aid is requested, a number of criteria will be applied to determine the eligibility of the accused for legal aid services, such as his income and the merits of his case. In financial year 2007-2008, Canadians made a total of 319,386 requests for legal aid in criminal cases, of which 263,982 were approved.[10]

  A word about duty counsel services. In all of Canada's provinces except Quebec, legal aid services offer the services of a duty counsel. These services are usually made available at the courthouse and are intended to provide summary assistance to people who have no legal representation and are about to appear in court. Similarly, all legal aid services offer summary assistance around the clock to individuals who have just been arrested and placed in detention. This service is usually provided over the telephone.

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9 The *Criminal Code* establishes some of the powers that may be granted to a justice of the peace. See Part XVI (first appearance and interim release) and Part XVIII (preliminary inquiry) of the *Criminal Code*.

10 Statistics Canada (2009). Legal Aid in Canada: Resource and Caseload Statistics. Ottawa, tables 10 and 13-1.

- *Clerk*: In a criminal law context, the duties of the clerk are to support the work of the court and help ensure that court hearings run smoothly. Often described as the judge's "right arm", the clerk prepares the trial docket, manages the evidence, swears in the witnesses, prepares the record of proceedings, helps draft orders and performs any other related duties. We would point out that the clerk's exact role varies considerably from one jurisdiction to another, and even within a given province or territory, depending on the number of cases being heard, the procedural rules of the court and the roles of other court employees.

- *Court reporter*: The digital recording of courtroom discussions has considerably altered the role of the court reporter. Here too, the situation varies greatly from one jurisdiction to another. Some courtrooms still use court reporters, and it is their job to oversee the recording of proceedings and to take notes to assist with the transcription of the tape, if necessary. In other courtrooms, it is the clerk who oversees the recording of court proceedings.

- *Bailiff*: Still in the criminal context, the role of bailiff is largely concerned with security. As with the clerk and the court reporter, the exact duties of the bailiff vary from one region of the country to another. In Quebec, for example, a bailiff called the court usher (*huissier-audiencier*) is responsible for maintaining order and ensuring that courtroom proceedings run smoothly. In several other jurisdictions, the bailiff is responsible for the security of the entire courthouse. It is the bailiff who inspects or searches people as they enter the courthouse and provides security inside the courtroom. In some cases, the bailiff is also responsible for transporting and escorting prisoners to and from court appearances (in some locations, the police perform this role). Finally, the bailiff may be asked to place under arrest someone appearing at a court office in response to an arrest warrant.

- *Correctional services*: Once the police make an arrest, the accused is turned over to correctional services, which are responsible for his detention. Detention, whether pending trial or following a guilty verdict, is the responsibility of correctional service officers. Depending on the sentence, a person found guilty of a crime will be held in either a provincial prison (sentences of under two years) or a federal penitentiary (sentences of two or more years).

- *Probation officer*: The probation officer becomes involved when the accused is conditionally released, either pending trial or after sentencing. The probation officer maintains contact and meets with the accused or the convicted person and ensures that he complies with the terms of his release. If these conditions are violated, the probation officer may be asked to issue an arrest warrant. We would also point out that the probation officer may be asked to write a pre-sentence report, which the judge will take into consideration when determining the sentence.

- *Registry officer*: The registry officer performs various administrative duties related to the cases tried in court and delivers services directly to the public. The registry officer may therefore be asked to enter data in the databases used to manage the court files. The registry officer may also serve members of the public who go to the registry office to ask a question about their case, pay a fine or act on a judgment.

2.2 The obligations with respect to official languages

The administration of justice in both official languages in Canadian courts makes sense from the standpoint of the division of legislative powers but not necessarily from that of services to the public. Consequently, the obligation of criminal courts to provide services in both official languages varies depending on the region, the court, the nature of the case and whether communication is taking place inside or outside the courtroom and the judicial process. This subsection presents these findings in greater detail.

The division of powers

The federal and provincial governments both play a part in the organization and delivery of criminal law services.

The provincial governments have the primary responsibility for the administration of justice in their respective jurisdictions. As Table 2 shows, the legislative assembly of each province has the power to create, organize and maintain criminal courts, notably the provincial and supreme courts. The provincial governments also appoint the judges who sit on the provincial court, which is the court that tries the vast majority of criminal cases.

The federal government's role centres on the creation of criminal offences. The Parliament of Canada alone has the power to create criminal offences, most of which are contained in the *Criminal Code*. Some criminal offences are contained in other enactments, such as those relating to the use and trafficking of narcotics. The federal government's role in the administration of criminal justice is clearly defined. It is responsible for appointing superior court judges and for enacting criminal procedure.

Table 2: Division of powers (1st instance, criminal law)

Federal	Areas	Provincial
x	Creation of criminal offences	
	Creation of courts (provincial court/supreme court)	x
	Organization of these courts	x
	Maintenance of these courts	x
	Appointment of judges: provincial court	x
x	Appointment of judges: supreme court	
x	Criminal procedure	

Source: Sections 91 and 92 of the *Constitution Act, 1867*.

The obligations set out in the Criminal Code *and in the* Official Languages Act

By virtue of its power to enact criminal procedure, the Parliament of Canada has granted all Canadians the right to use English and French during criminal proceedings. Part XVII of the *Criminal Code* (sections 530 to 533.1), reproduced in full in Appendix A of this report, describes the circumstances in which one or both official languages are used. The following points are relevant for the purposes of this study:

- The judge or the justice of the peace before whom an accused first appears must ensure that the accused is informed of his right to proceed in either official language.

- When the accused has chosen the official language in which he wishes to proceed, the judge, the justice of the peace (if applicable) and the Crown prosecutor must speak that language.
- Language rights in criminal matters extend to the preliminary inquiry and the trial.
- The accused, his lawyer and witnesses may use either official language at all stages of the trial. Similarly, either language may be used in written pleadings.
- Interpretation services must be provided for the accused, his lawyer and witnesses.
- The record of the preliminary inquiry and of the trial must contain all discussions conducted in the original official language, as well as the transcript of the interpretation provided at the hearing.
- The written judgment rendered in an official language must be available in its entirety in the language of the accused.
- The language rights enshrined in the *Criminal Code* apply across Canada.

While the *Criminal Code* is the primary source of language rights applicable in criminal matters, it is not the only source. The *Official Languages Act* also governs certain stakeholders such as the Royal Canadian Mounted Police (RCMP) and federal penitentiaries (prison terms of two or more years). Since both are federal institutions, they must meet all obligations under the *Official Languages Act*.

The RCMP sometimes provides policing services under contract to a provincial or municipal government; it has an obligation to deliver services in both official languages within the relevant areas defined by the *Official Languages Act*, and its obligation in the rest of the jurisdiction is determined by the contracting provincial or municipal government.[11]***Additional obligations***
The use of official languages is not confined to the criminal sphere. In some jurisdictions and in certain circumstances, Canadians have the right to use English and French in civil and family matters, or even in matters of administrative law. Thus, the Canadian Constitution guarantees the right to use both official languages in all federal courts and in the courts of New Brunswick, Quebec and Manitoba. In other provinces, such as Ontario, Saskatchewan and Alberta, certain language rights are established by statute. Finally, we would note that both official languages may be used in proceedings in all three of Canada's territories.

The recognition of language rights in civil and family law has an indirect, but no less real impact on the obligations in criminal law. The institutional capacity of a province or territory to provide services in both official languages in civil and family matters may facilitate the delivery of bilingual services in criminal matters.

2.3 The notion of the institutionally bilingual court

With the experience gained since the coming into force, in 1990, of Part XVII of the *Criminal Code* (Language of Accused) has come a better understanding of its operational impact. The

[11] The Supreme Court of Canada dealt with the official language obligations of the RCMP recently in *Société des Acadiens et Acadiennes du Nouveau-Brunswick* v. *Canada*, 2008 S.C.R. 15.

provinces and territories have a duty, in criminal matters, to offer Canadians equal access to judicial proceedings in the official language of their choice.

Under the *Criminal Code* provisions governing the language of the accused, provinces and territories have an obligation to establish criminal courts that are "institutionally bilingual". The Supreme Court of Canada leaves no doubt as to the degree of bilingualism required: there must be true equality of English and French, without regard to any administrative inconvenience this may cause:

> I wish to emphasize that mere administrative inconvenience is not a relevant factor. The availability of court stenographers and court reporters, the workload of bilingual prosecutors or judges, the additional financial costs of rescheduling are not to be considered because the existence of language rights requires that the government comply with the provisions of the Act by maintaining a proper institutional infrastructure and providing services in both official languages on an equal basis. As mentioned earlier, in the context of institutional bilingualism, an application for service in the language of the official minority language group must not be treated as though there was one primary official language and a duty to accommodate with regard to the use of the other official language. The governing principle is that of the equality of both official languages.[12]

Another important point, concerning the ability of the accused to speak both official languages, deserves special mention. According to the Supreme Court, "[t]his ability is irrelevant because the choice of language is not meant to support the legal right to a fair trial, but to assist the accused in gaining equal access to a public service that is responsive to his linguistic and cultural identity."[13] The ability of an accused to speak both official languages therefore cannot be invoked to justify a denial to proceed in the official language of his choice. This point is especially important in a minority language community.

Finally, we would point out that a failure to meet the obligations entrenched in the *Criminal Code* must be deemed a substantial wrong, not a minor irregularity. To cite the Supreme Court of Canada, "there must be an effective remedy available for breach of s. 530 rights," [14] which may include holding a new trial. Here again, the ability of the accused to understand the official language in which the proceeding is conducted, if it is other than the one he has chosen, in no way diminishes the need to provide an effective remedy.

2.4 To summarize

As this study concerns the training of criminal justice stakeholders, following is a summary of the impact of language provisions on each of the main categories of stakeholders:

- *Police officers*: The obligation of a police officer to communicate directly with the accused in one or the other official language is largely determined by the police force to

12 *R.* v. *Beaulac*, [1999] 1 S.C.R. 768, para. 39.
13 Ibid, para. 45.
14 Ibid, para. 54.

which the officer belongs and its obligations under federal, provincial or territorial legislative and administrative provisions. It should be recalled that RCMP officers must, as a minimum, provide bilingual services in all instances stipulated by the *Official Languages Act* (Part IV). A police officer called to testify in court may, however, use the official language of his choice and is entitled to an interpreter.

- *Judges and justices of the peace*: Provincial and superior court judges and justices of the peace must be able to try a case in the official language chosen by the accused. The judge must have the ability to understand this language directly (without an interpreter) and to communicate with the accused in that language. The judge is also responsible for ensuring that every accused is informed of his right to proceed in either official language.[15]

- *Prosecution lawyers*: Like judges, Crown prosecutors must be able to proceed in the official language chosen by the accused. They must be able to understand and communicate directly in this language.[16]

- *Defence lawyers*: In principle, defence lawyers have no obligation to communicate in the language of the accused. The defence lawyer may file his documents in either official language and is entitled to an interpreter. If the lawyer works full-time for legal aid, he may be required to provide his services in both official languages, depending on the provisions established by the relevant provincial or territorial government.

- *Clerks and court reporters*: When working in the context of a bilingual proceeding or a proceeding conducted in the minority official language, clerks and court reporters must be able to understand the proceedings at hearings, to prepare the documents pertaining to these hearings and to communicate with the public. In many cases, the clerk is asked to draft the judge's order and explain it to the accused. This must be done in the official language of the accused.

- *Other (registry officers, bailiffs, correctional services, probation officers)*: While the extent of the language obligations of other stakeholders seems less clear, the fact remains that they are required to work in a bilingual environment. Their ability to communicate in both official languages plays a supporting role to that of the other stakeholders.

3.0 Methodology

This needs analysis looks at each of the four components of the Roadmap, including the coordination mechanism that is best able to support the effective application of this component. The methodology used for this study includes: a literature review, a document review, an analysis of socioprofessional data taken from the Census, interviews with key stakeholders across the country, field case studies in four provinces, and a panel of experts. Together these sources help address the predetermined research issues. Appendix B presents the research issues investigated during this study and the indicators and data sources used to address them.

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15 See *R.* v. *Potvin* (2004), 69 O.R. (3d) 641 (Ont. C.A.)

16 Ibid.

3.1 Literature review

A review was undertaken of the literature on the division of powers, roles and responsibilities relating to the administration of justice in both official languages. This review covered court decisions right up to the present date as well as the applicable doctrinal texts. Particular emphasis was placed on other issues relevant to this study: the range of stakeholders concerned, the nature of their duties, official language obligations, and so on.

3.2 Document review

The purpose of the document review was to illustrate the organization of stakeholders in the area of justice and to identify the training programs available to them (basic training and continuing education).

3.3 Analysis of socioprofessional data

This analysis looked at socioprofessional data taken from the 2006 Census of Statistics Canada. The purpose was to establish the language profile and the evolution of careers in justice. The data are taken from two data series:

- The *North American Industry Classification System* (NAICS) gave us an idea of the work environment of Canadians. Specifically, series 5411 covers Legal Services and includes law firms, notary offices (in Quebec only), while series 91 covers Public Administration, including law courts, correctional services, and federal, provincial and municipal police services.

- The *National Occupational Classification for Statistics* (NOC-S) gave us an idea of their jobs. Series B317 covers Court Officers and Justices of the Peace (administrator, clerk, justice of the peace, court officer), series B543 covers Court Clerks, series E011 covers Judges, series E012 covers Lawyers and series G611 covers Police Officers.

The data were analysed by court services occupations based on NOC-S 2006.[17] For each occupation we prepared a brief description, followed by a data analysis for all of Canada and for each province and territory based on language variables, age, level of education and industry. This was followed by a comparative analysis of occupations for Quebec and for the rest of Canada, and according to age pattern.

It is important to note that all data used in this analysis, incorporated into the findings of this report and pertaining to the 2006 Census were produced by Statistics Canada (Statistics Canada, special compilation, Census of 2006, EO1340). This information is used with the permission of Statistics Canada. Users are forbidden to copy the data and redisseminate them, in an original or modified form, for commercial purposes, without the expressed permission of Statistics Canada. Information on the availability of the wide range of data from Statistics Canada can be obtained

[17] Statistics Canada, *The National Occupational Classification for Statistics 2006.* Ottawa, 2007. On line: www.statcan.gc.ca/bsolc/olc-cel/olc-cel?catno=12-583-X&lang=eng.

from Statistics Canada's Regional Offices, its Web site at http://www.statcan.ca, and its toll-free access number 1-800-263-1136.

Also, the tables included in this report use the letter symbols of the provinces rather than their abbreviations. Although some of these letter symbols are inspired by the province's English name, they are recognized and accepted in French text.[18]

3.4 Interviews

For all in-person interviews and case studies, the sampling of most key stakeholders was by region (Western and Northern Canada, Ontario, Quebec, Atlantic Provinces). The interviews conducted in provinces and territories not covered by the case studies targeted various key stakeholders who play a role in access to justice in both official languages. The Department of Justice provided contact information for individuals in each province and territory. We contacted these individuals and explained our approach to them, and then to the stakeholders to whom they referred us.

Court administrators are a distinct category in that their role is to manage and coordinate numerous other stakeholders. Since it was difficult to reach all stakeholder categories for this study, we concentrated on court administrators, who provided information on a wide range of scenarios involving various stakeholders, such as court services officers, clerks, bailiffs, and so on. For training institutions, we chose the main ones that offer courses of study leading to careers in justice.

In the jurisdictions involved in the case studies, all interviews were set up, organized and approached in the same way, but were reported and analysed separately (see section 3.5).

Table 3 shows the total number of interviews conducted.

Table 3: Categories of key stakeholders

Key stakeholders	Distribution	Number of individuals consulted
Lawyers	Federation of Associations of French-speaking Jurists and the executives of these associations	8
Departments of Justice or Attorney General of each province and territory	Court services	14
	Court administrators	12
	Prosecutors	7
	Probation services	4
Postsecondary institutions	University of Ottawa	3
	Laurentian University	1
	Université de Moncton	1

[18] The Commission de toponymie du Québec in fact recognizes the use of these letter symbols. See: http://www.toponymie.gouv.qc.ca/CT/atouts/nom_province_territoire.html.

Table 3: Categories of key stakeholders		
Key stakeholders	**Distribution**	**Number of individuals consulted**
	McGill University	1
	Cité collégiale	2
	Collège Boréal	1
	Collège communautaire du N.-B.	1
	John Abbott College	1
Jurilinguistic centres	University of Ottawa	4
	Collège St-Boniface	
	Université de Moncton	
	McGill University	

We developed an interview guide for each stakeholder category. These guides can be found in Appendix C of this report.

3.5 Case studies

Four case studies were conducted. First, they were used to establish the profile of each of the jurisdictions studied (the judicial process, the various forms of communication between the judicial system and citizens, the strategy for offering minority language services). They were also used to illustrate some of the operational challenges of delivering services in both official languages in the court system of each jurisdiction. Finally, they identified the main official language training needs in the area of justice that have not yet been met in these regions. The four cases were chosen in close cooperation with the Department of Justice, making sure to include various scenarios to illustrate the nature and frequency of contact points between citizens and the court system, and the type of organizational capability needed in order to provide services in both official languages. One case study was of Quebec, where services are provided to the English minority community, and the other three were of Manitoba, Ontario and Nova Scotia, where it is the French minority community that receives these services.

As with the stakeholder interviews in the other provinces and territories, the case study interviews targeted a range of key stakeholders who play a role in access to justice in both official languages. The Department of Justice provided contact information for individuals in each of the four provinces. We contacted the administrators and other stakeholders concerned to explain our approach and schedule a field visit. We then made a field visit to each jurisdiction, gathering information from the key stakeholders. When stakeholders were unavailable at the time of the field visit, we followed up with a telephone interview. The Ontario case study was conducted differently from the other three, since a similar needs analysis was already under way in that province. The results of that study were shared with us, and we supplemented that information with several telephone interviews. The same interview guides developed for use in the other provinces and territories were used in the case study interviews. In several instances, the information we gathered was supplemented by documentation provided by various stakeholders.

Table 4 shows the total number of interviews conducted within the scope of the case studies.

Table 4: Categories of key stakeholders		
Key stakeholders	**Distribution**	**Number of individuals consulted**
Legal Aid Services		6
Departments of Justice or Attorney General of each province and territory	Court services	5
	Court administrators	8
	Prosecutors	5
	Probation services	4
Judges		8

3.5.1 Panel of experts

After the data were analysed, a panel of experts was asked to validate the preliminary findings and proposed solutions. These experts were individuals with either a comprehensive view or an inside view of some aspect of the issue. A preliminary list of ten experts was submitted to the Department of Justice for approval and, in view of the time constraint, the recommendation that this panel convene by teleconference rather than travel to attend a meeting in person was approved. A guide summarizing the proposed solutions was distributed to the experts several days before the teleconference. Four experts agreed to participate; three actually did participate, while the fourth provided written feedback.

4.0 The training needs

This section of the report presents the findings on the official language training needs of justice stakeholders. It begins by providing the context of public interaction with the judicial system and the current language profile of justice stakeholders; it then looks at proficiency in legal vocabulary, and finally at basic language training and further training on the job.

4.1 Public interaction with the judicial system

Owing to the very nature of its mandate, the judicial system is inherently intimidating to persons appearing before the courts, and they may be reluctant to exercise their right to proceed in the official language of their choice. Given the growing number of contact points between these individuals and the judicial system, one can easily think of circumstances in which these rights will simply be overlooked. What follows is an exploration of these findings.

As the focus of this study is criminal law, the importance of the matters dealt with in this branch of the judicial system cannot be minimized. A criminal offence can leave many scars. For the victim of the crime, it is an extremely unpleasant experience and, at worst, shattering, even traumatic. For the accused, a conviction can lead to incarceration and systematically damages his reputation, leaving him with a criminal record. From the time of the indictment—possibly involving an arrest—and all throughout the proceedings leading to the verdict and, if applicable, the sentence, the accused and all stakeholders are involved in a highly procedural and complex process. The judicial system is not designed to be warm and friendly. On the contrary, the formalities that surround it are a reminder of the seriousness of the matters dealt with.

Since there are many possible scenarios for the processing of an indictment, the points of contact between the person appearing before the courts and the judicial system are numerous. This interaction may involve the police officer who laid the charge, the correctional service officer if the accused is in detention, the defence lawyer (who may or may not be from legal aid), the registry office, the Crown prosecutor, the clerk, the judge and possibly the probation officer, to mention only the main contact points. The process may begin with an appearance before a justice of the peace, and then continue before a provincial or superior court judge; and then there is the appeal process to consider.

In this very specific context, the active offer is of great importance. The concept of the active offer refers essentially to the obligation of the person providing a service to systematically inform the person receiving it that he has the option of being served in either official language. In a context of institutional bilingualism, no assumption can be made about an individual's preferred language of service, nor can an individual be required to make additional or exceptional arrangements in order to be served in his chosen official language. In many respects, the active offer is therefore the foundation of institutional bilingualism. The importance of this principle becomes apparent in a minority language community. As Ontario's French Language Services Commissioner recently recalled, “Generally, in a majority language community, if there is a demand, it is met. In the case of French-language services, these services first have to be offered in order for the demand for them to emerge. Thus, instead of just a sign that reads

'English/French', service providers need to be able to effectively offer high-quality French-language services."[19]

The active offer becomes particularly important in view of the power imbalance that is characteristic of the court system. Leaving aside language considerations, the accused or, more generally, any person appearing before the courts is vulnerable before a judicial system that holds exceptional powers and authority in our society. To avoid any further disadvantage, the accused or the party to a proceeding will naturally avoid making any demands on the authority to which he is answerable. *To demand* service in one official language presupposes, at the very least, a relationship of equality, or even of superiority, vis-à-vis the service provider. For example, a citizen probably would not hesitate to demand service in the official language of his choice from a national organization seeking a cash donation. A person subject to the jurisdiction of the courts would be far more reluctant to demand such a service from an approaching police officer. In the area of justice, it is therefore the responsibility of the relevant authority to make an active offer of service, and this issue should be addressed not at the time the charge is laid, but rather institutionally.

The knowledge that justice stakeholders have of applicable language rights varies greatly, as does that of citizens. With over two million *Criminal Code* offences reported and 370,000 cases brought before the courts each year, the capacity of courts to be institutionally bilingual is far from consistent across the country and presents a major challenge in minority language communities. Many times during the study consultations, stakeholders reminded us that cases heard in the minority official language often account for less than five percent of all cases heard. In this context, it is understandable that considerable care must be taken to ensure that language rights do not become lost in the sheer volume of cases.

4.2 Language proficiency of the stakeholders

Since this study focuses on official language training in the area of justice, it is important to know, as far as possible, what is the current ability of stakeholders to work in both official languages. We would point out that there is no one definitive answer to this question. However, a number of indicators suggest that the basic level of proficiency in both official languages is fairly high among the various justice stakeholders, and that this level is expected to increase in future. This subsection of the report presents some of the data that support this observation.

The ability to conduct a conversation in both official languages

The data used in this study give us a better understanding of justice stakeholders' perception of their ability to communicate in both official languages. Data from the most recent Census, conducted in 2006, directly address the issue of proficiency in both official languages. Specifically, Statistics Canada asked Canadians if they knew English and French "well enough to conduct a conversation". It is important to be clear about the significance of the answers to this question:

[19] French Language Services Commissioner. (2008). *2007-2008 Annual Report: Paving the Way*. Toronto, p. 15.

- First of all, this is a self-assessment. Every individual who answered this question determined for himself what constitutes sufficient knowledge to "conduct a conversation" and assessed himself on that basis. No test or other means of verification was used to corroborate this self-assessment.

- Conducting a conversation in one's second language is not the same as being able to participate in a trial in that language. Since justice is a technical field with its own terminology, presumably many individuals who think themselves able to conduct a conversation in their second language would be reluctant, or even refuse, to take an active part in a trial conducted in that language unless they had first had specialized language training.

Once the individuals had assessed their ability to conduct a conversation in both official languages, they were grouped by occupation[20] and by the industry in which they were employed.[21] This aggregation gives us a better understanding of the language ability of justice stakeholders. As with any classification, however, the definitions used can pose problems. The following points regarding the data used in this report deserve special mention:

- Some definitions of occupational types do not reflect the distribution of responsibilities found in the country's various jurisdictions:

  - *Justices of the peace and court officers*: Statistics Canada groups these two occupations together, while in many jurisdictions they are separate. The court officer is usually responsible for coordinating the administrative tasks of the court and therefore encompasses the positions of court administrator and director of legal services.

  - *Legal services officers*: This category can be misleading. It does not refer to registry officers, who are responsible for answering questions from the public, receiving payment of fines, and so on. Rather it refers to duties normally performed by clerks, namely, preparation of the trial docket, management of evidence and, more generally, assisting the courts. It even includes duties normally reserved for the court usher (especially in Quebec) or, elsewhere in the country, the bailiff or sheriff, namely, maintaining order in the courtroom.

  - *Law clerks*: This category refers to what is commonly called legal assistants. Employed often (but not exclusively) in the private sector, they are responsible for the preparation of certain documents, keeping files and may do some research. In some cases, these duties are carried out by what are known as "paralegals".

  - The other occupational types are more clearly defined. The category of "judges" encompasses all trial and appeal court judges, and the category of "lawyers" includes all types of lawyers and notaries in Quebec, whether or not they formally practise law.

[20] This classification is based on the National Occupation Classification for Statistics (NOC-S).
[21] This classification is based on the North American Industry Classification System (NAICS).

- From industry data we were able to determine whether the stakeholders work in "legal services" (law firms or notary offices) or in "public administration" (courts, correctional services or police services).

- Finally, the data were rounded out, generally to the nearest interval of 5. However, numbers between 0 and 9 were reported as 0 to protect confidentiality. Thus, the fact that some tables in this report indicate that no stakeholders in a given category can conduct a conversation in both official languages does not rule out the possibility that there may be as many as nine.

N.B.: For the sake of conciseness in this subsection, the term "bilingual" is applied to individuals who, at the time of the Census, stated they had a sufficient knowledge of both English and French to conduct a conversation in either language.

The language profile of stakeholders in Canada, excluding Quebec

This analysis begins with a profile of the language ability of stakeholders working in Canada, excluding Quebec (which was analysed separately).

The number of bilingual stakeholders in jurisdictions other than Quebec is not negligible. As Table 5 shows (page 19), between 9% and 29% of stakeholders in the various occupational categories stated that they are bilingual. Judges and lawyers have the highest rates of bilingualism (29% and 25% respectively). No fewer than 540 judges and nearly 13,700 lawyers stated that they are bilingual.

For the majority of bilingual stakeholders, French is not their first official language spoken. For example, of the 13,685 bilingual lawyers, only 1,860 have French as their first official language spoken. Therefore, for the most part, they are anglophones who have learned sufficient French to conduct a conversation in that language. It is conceivable—but this is only speculation at this stage—that a number of these stakeholders attended French immersion schools.

The bilingual ability of stakeholders is somewhat lower in support functions, such as clerks, bailiffs and probation officers. This tendency may present major challenges if one considers their contribution to the smooth conduct of criminal hearings.

Table 5: Language profile of stakeholders – Canada, excluding Quebec (2006)

Occupations	Total	FOLS – French [a]		Knowledge of OL [b]	
		Number	%	Number	%
Judges	1,890	145	8%	540	29%
Justices of the peace	3,440	245	7%	535	16%
Lawyers	55,505	1,860	3%	13,685	25%
Registry officers (clerks)	2,685	165	6%	355	13%
Bailiffs (sheriffs)	1,910	45	2%	165	9%
Law clerks (assistants)	30,935	910	3%	3,565	12%
Probation officers	4,770	245	5%	670	14%
Total	101,135	3,615	4%	19,515	19%

Notes: [a] FOLS refers to "first official language spoken".
[b] Knowledge of official languages refers to the ability to conduct a conversation in both official languages.

Source: Statistics Canada, Census 2006.

The language profile of stakeholders in Quebec

In Quebec, the level of bilingualism among all stakeholders is high. As Table 6 shows, no fewer than 9 in 10 judges and more than 8 in 10 lawyers consider themselves bilingual. As elsewhere in Canada, of the total number of bilingual stakeholders, only a small proportion reported the minority language (English, in Quebec) as their first official language spoken. In the Quebec context, it is therefore mainly francophones working in various justice occupations who populate the ranks of bilingual personnel.

While bilingualism rates are therefore generally high, they are still lower in support functions, such as clerks and probation officers.

Table 6: Language profile of stakeholders – Quebec (2006)

Occupations	Total	FOLS – English [a]		Knowledge of OL [b]	
		Number	%	Number	%
Judges	710	25	4%	630	89%
Justices of the peace	1,080	20	2%	595	55%
Lawyers	18,445	2,090	11%	15,215	82%
Registry officers (clerks)	640	35	5%	350	55%
Bailiffs (sheriffs)	695	35	5%	440	63%
Law clerks (assistants)	4,495	585	13%	2,980	66%
Probation officers	850	20	2%	505	59%
Total	26,915	2,810	10%	20,715	77%

Notes: [a] FOLS refers to "first official language spoken"
[b] Knowledge of official languages refers to the ability to conduct a conversation in both official languages

Source: Statistics Canada, Census 2006

Language profile by province or territory

A closer look at the language profile of some stakeholders by province or territory shows fairly predictable trends, while others are more surprising.

Thus, similar to Quebec, the level of bilingualism among New Brunswick stakeholders is high. As Table 7 shows (next page), all New Brunswick judges stated that they are bilingual. In the other occupations, at least half of stakeholders stated that they are bilingual, with the exception of law clerks, who have the lowest level of bilingualism (29%).

The data we found of particular interest included the following:

- There are bilingual lawyers in every region of the country. Ontario has no fewer than 8,945 lawyers who stated that they are bilingual. There are also 1,280 lawyers in Alberta and 1,830 in British Columbia who stated that they are bilingual.
- Similarly, there are bilingual judges in every region of the country. In Ontario, Alberta and British Columbia, the percentage of judges who stated they are bilingual ranges from 21% to 35%.
- The low level of bilingualism among clerks is directly reflected in the regional profile. Thus, there are almost no bilingual clerks in Saskatchewan and the three territories, and very few in Alberta and the Atlantic provinces (except for New Brunswick).
- Similarly, there are no, or very few, bilingual probation officers in virtually every jurisdiction except Quebec and New Brunswick.

Table 7: Language ability of stakeholders in Canada (2006)									
Stakeholders	**Knowledge of official languages (number and percentage [a])**								
	NL/PE/NS	**NB**	**QC**	**ON**	**MB**	**SK**	**AB**	**BC**	**Terr.**
Judges	30	75	630	235	30	20	75	80	0
	19%	100%	89%	31%	16%	18%	35%	21%	0%
Justices of the peace	15	40	595	370	20	0	30	60	10
	6%	53%	55%	18%	13%	0%	12%	14%	13%
Lawyers	510	570	15,215	8,945	310	190	1,280	1,830	65
	19%	48%	82%	29%	16%	13%	17%	18%	26%
Registry officers (clerks)	15	10	350	230	15	0	40	45	0
	13%	67%	55%	17%	12%	0%	7%	11%	0%
Bailiffs (sheriffs)	0	30	440	60	0	0	30	35	0
	0%	50%	63%	13%	0%	0%	9%	5%	0%
Law clerks (assistants)	125	105	2,980	2,370	95	0	440	420	10
	8%	29%	66%	14%	9%	0%	8%	9%	11%
Probation officers	25	95	505	370	25	10	30	105	0
	10%	49%	59%	17%	9%	2%	6%	12%	0%
Notes : [a] Percentage of the total number of individuals practising the profession.									
Source: Statistics Canada, Census 2006.									

Differences according to age group

The level of bilingualism of justice stakeholders is expected to increase. Thus, an analysis of census data by age groups shows that a much higher proportion of young lawyers versus older lawyers stated that they are bilingual. For example, Figure 2 presents the data for lawyers working in Ontario. While 40% of those ages 25 to 34 stated that they are bilingual, this rate is systematically lower among older lawyers, reaching only 16% for lawyers ages 65 or older. This same trend is seen systematically in all stakeholder groups.

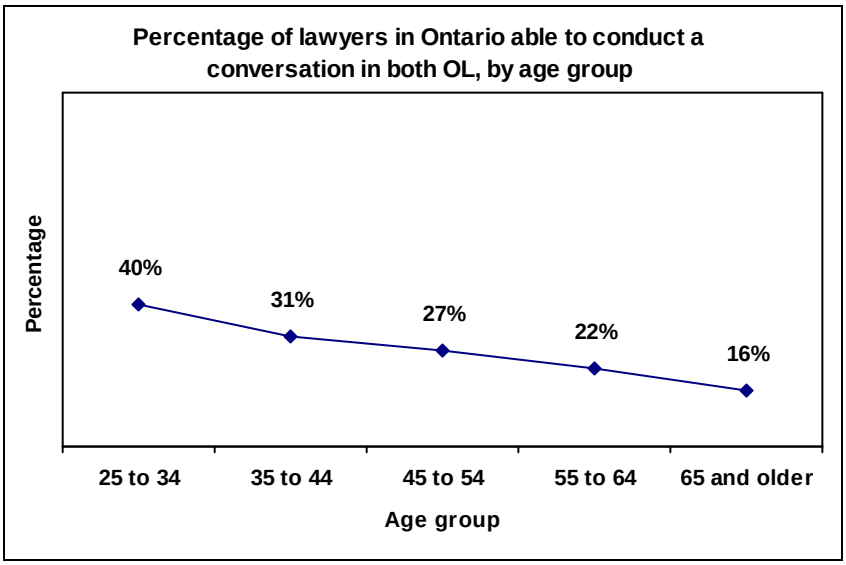

Figure 2
(Source: Statistics Canada, Census 2006)

4.3 A command of legal vocabulary

For a court to truly be institutionally bilingual it is essential for stakeholders to have a command of legal vocabulary in both official languages. Obviously, this is not the only determinant, since the administrative infrastructure of courts must also allow for the efficient planning and management of the services provided in either official language.

Needless to say, a command of legal vocabulary is much more than the ability to conduct a conversation in both official languages. The ability to conduct a conversation in both official languages is the first stage in a logical progression. The second stage is a command of the legal vocabulary appropriate to the area of justice in which the stakeholder works. The third and final stage is the appropriation of legal *discourse* in both official languages, that is, the ability to properly apply the legal vocabulary that has been learned. In other words, it is the ability to combine knowledge of a specialized vocabulary with standard practice of a given occupation: the stakeholder is not only familiar with the legal vocabulary, but is also able to use it daily in his contacts with other stakeholders and the public.

A command of the vocabulary specific to various areas of law presupposes that such a vocabulary exists, and in Canada this has not always been the case. As c*ommon law* developed first in English and civil law in French, Canada found itself in a unique situation, in which

bijuralism existed alongside institutional bilingualism. The aim is therefore to create a legal discourse that reflects both systems of law and both official languages. With criminal law as its main focus, this study found that a relatively consistent, standardized vocabulary has emerged, based on the *Criminal Code*. It is continually evolving, however, and must continue to do so as criminal law is amended and changed.

Language proficiency refers to both written and spoken proficiency. In criminal law, oral communication predominates, although written pleadings are regularly filed in court. In addition to any orders issued, the judge's decision may be handed down orally to the accused and entered in the record, or be rendered in writing and published, in which case it must be made available in the language of the accused. While most communication is oral, it must be recognized that the ability to draft legal documents in both official languages is essential to the notion of the institutionally bilingual court.

The need for proficiency in legal vocabulary applies equally to stakeholders from minority language communities and to those from majority language communities. An important determinant of this proficiency is the language in which the stakeholder received his professional training. Thus, a francophone lawyer from Manitoba who attended law school at the University of Manitoba may be more reluctant to proceed in French than an anglophone who graduated from an immersion program and studied law in the French common law section of University of Ottawa or at Université de Moncton. Even a francophone who attended school in French but seldom works in that language will need further training to maintain his ability to proceed in French. Training needs are therefore not confined to one language group rather than another.

Finally, a justice stakeholder will learn to function in both official languages through his basic training and on-the-job training. The following subsections will therefore look at both these areas, and at the tools and reference material available to stakeholders.

4.4 Basic training

The basic training offered in the various areas of justice only partially improves the capacity of courts to be institutionally bilingual. Following is a description of the training available to each of the main groups considered in this study.

Occupation: Lawyer												
Basic training: yes												
Basic training in the minority language: yes												
NL	PE	NS	NB	QC	ON	MB	SK	AB	BC	YK	NT	NU
			x	**x**	**x**							

Basic legal training is of course offered in every region of the country. This training is the same, whether the graduate goes on to private practice or becomes a Crown prosecutor or a legal aid lawyer and, from there, perhaps a judge. Moreover, because of Canada's legal duality, there are programs in both common law (mainly outside Quebec) and civil law (mainly within Quebec).

Some Canadian universities offer law programs in the second official language:

- University of Ottawa offers its common law program in French (as well as English);
- Université de Moncton offers its common law program in French;
- McGill University offers its common law and civil law program in English, with the option of taking certain courses in French.

Laurentian University, in Sudbury, offers a bachelor of law and justice program in French. These general studies can prepare students for studies in law.

Law schools in majority language communities could play a greater role in their students' language training. Aside from those mentioned above, law schools provide essentially no opportunities for their students to learn and develop the proficiency in legal vocabulary they will need in their second official language. This situation, often deplored during the study consultations, also poorly reflects the language profile of the students who attend these schools. As Figure 3

shows (page 24), a significant proportion of young anglophone lawyers in every region of the country (outside Quebec) stated that they are able to conduct a conversation in both of Canada's official languages. This skill was obviously acquired before they entered law school or as a sideline while studying law. However, only the law faculties at Moncton, McGill and Ottawa (French program) universities give students an opportunity to improve their command of legal vocabulary in both official languages. One solution, proposed during the consultations, would be to offer courses that specifically address the issue of legal vocabulary in both official languages (rather than a series of courses in the second language). Another solution would be to offer common law courses on-line, in partnership with the law schools that already offer such courses.

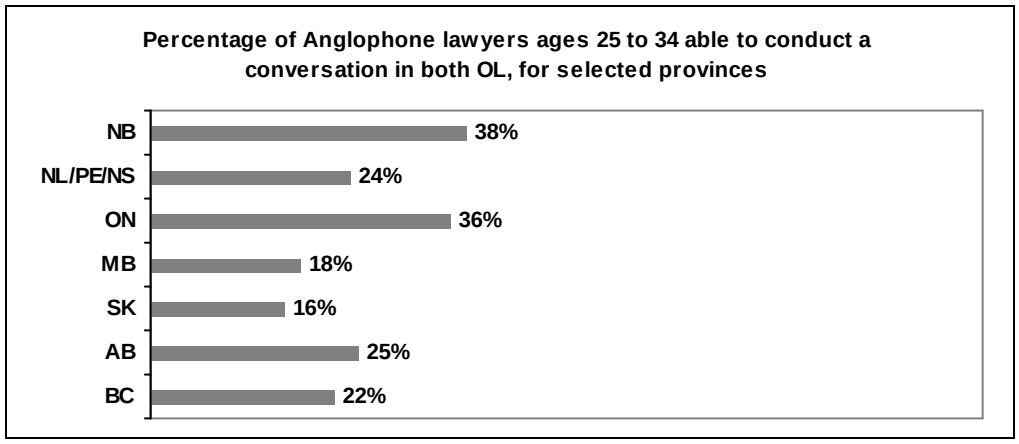

Figure 3
(Source: Statistics Canada, Census 2006)

Occupation: Justice of the peace												
Basic training: no												
Basic training in the minority language: no												
NL	PE	NS	NB	QC	ON	MB	SK	AB	BC	YK	NT	NU

No formal law school training is required to be a justice of the peace. In fact, no basic training exists in either official language for this occupation. The education and experience profile of a justice of the peace is therefore quite varied, and justices of the peace acquire the ability to function in both official languages in numerous ways. As Table 7 shows (page 21), they have some ability to communicate in both official languages, but this ability is systematically and substantially less than that of judges. Given the important role that justices of the peace play in criminal law, especially at the first court appearance of an accused, this language profile may prove problematic.

It is not expected that a basic training program will be introduced for justices of the peace. During the study consultations, no such request was made. Justices of the peace will therefore have to receive their training, especially their language training, through continuing education.

Occupation: Clerks												
Basic training: yes												
Basic training in the minority language: no												
NL	PE	NS	NB	QC	ON	MB	SK	AB	BC	YK	NT	NU

Like the justice of the peace, the position of clerk generally requires no particular legal training, with one exception: New Brunswick requires its clerks to be lawyers. Durham College, in Ontario, also offers training specifically for clerks (Legal Administration/Law Clerk Program),[22] but it is offered in English only and includes no training in bilingual legal vocabulary.

The level of education of clerks is rising. As Figure 4

shows, 40% of clerks ages 24 to 34 have a university-level certificate or diploma, nearly twice the proportion of clerks ages 55 to 64.[23] In most regions of the country, a person can be hired to a clerk position based on their experience. Whether or not a clerk is able to function in both official languages will therefore depend on numerous possible scenarios related to their education and work experience.

[22] This program is approved by the Institute of Law Clerks of Ontario (www.ilco.ca).

[23] Note that clerks fall into the category of "legal services officers" for census data purposes. See section 4.3 for further details.

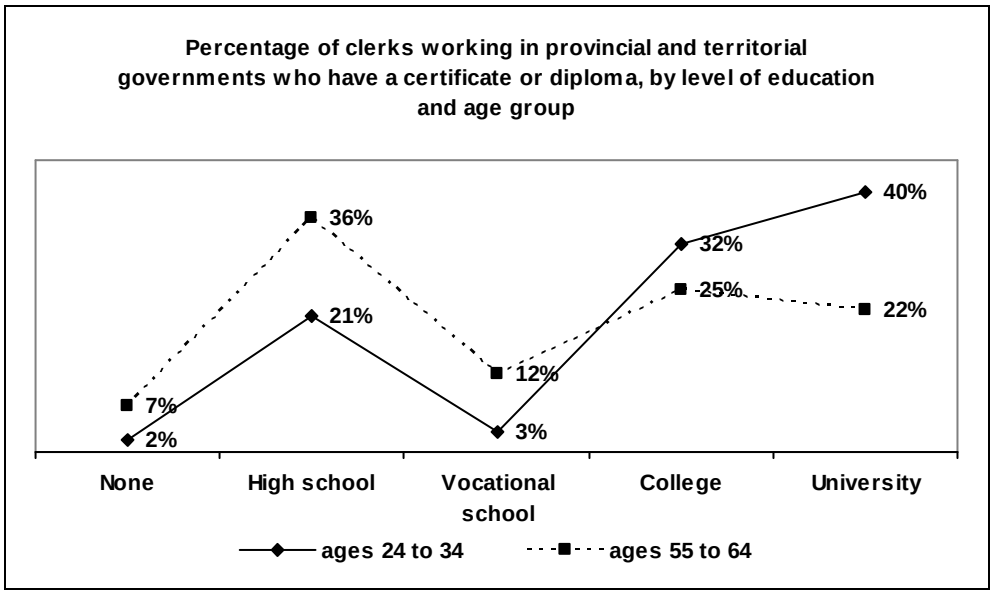

Figure 4
(Source: Statistics Canada, Census 2006)

Occupation: Court reporter, registry officer												
Basic training: yes												
Basic training in the minority language: no												
NL	PE	NS	NB	QC	ON	MB	SK	AB	BC	YK	NT	NU

The positions of court reporter and registry officer do not require any particular basic training. Here too, we would point out that Durham College, in Ontario, offers basic training specifically for court reporters and registry officers (*Court Support Services Program*) in English. An individual's work experience tends to be the hiring criterion for these positions. Often, registry officers and court reporters have worked first in a law firm as a legal assistant.

We would point out that court reporters assigned to the courtroom no longer need to be proficient in stenography since courtroom proceedings are now recorded and digitized. Many jurisdictions rely on private companies to transcribe the tapes when this is necessary.

Occupation: Bailiff												
Basic training: yes												
Basic training in the minority language: yes												
NL	PE	NS	NB	QC	ON	MB	SK	AB	BC	YK	NT	NU
			X	**X**	**X**							

The position of bailiff requires no particular basic training. As Figure 5

shows, just over half of the bailiffs working for a provincial or territorial government have a certificate or diploma from a high school or vocational school. It can be seen that 45% of bailiffs have a post-secondary certificate or diploma.

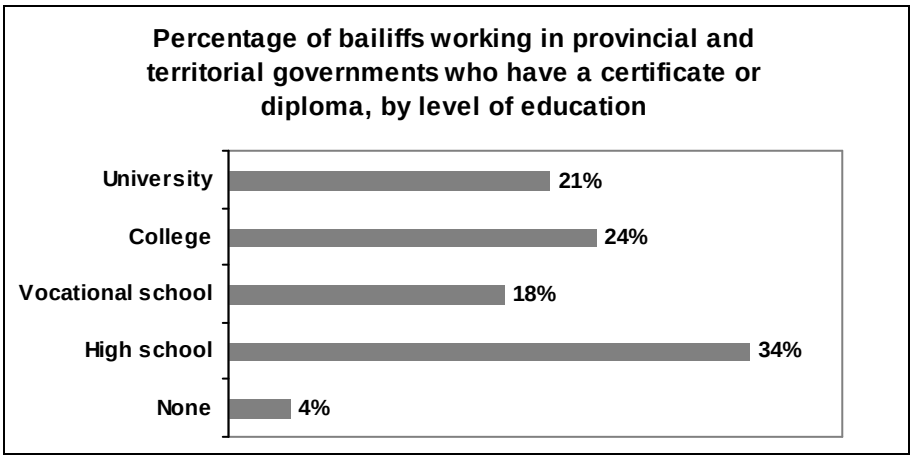

Figure 5
(Source: Statistics Canada, Census 2006)

There are a number of programs in correctional studies that may provide relevant training in bailiff duties. As for programs offered in the minority language, Collège communautaire du Nouveau-Brunswick (Dieppe), Cité collégiale (Ottawa) and Collège Boréal (Sudbury) offer programs in correctional studies in French, and John Abbott College (Montréal) offers one in English.

Occupation: Interpreter, translator												
Basic training: yes												
Basic training in the minority language: yes (translation)												
NL	PE	NS	NB	QC	ON	MB	SK	AB	BC	YK	NT	NU
			X		X	X						

There are a number of training programs for interpreters and translators in Canada, including several geared specifically to working in a courtroom setting:

- Université de Moncton offers a general bachelor's program in translation.
- University of Ottawa offers a general translation program at the bachelor's and master's levels. Specifically, the university offers a master's program in legal translation. It also offers a doctoral program in translatology.
- Also in Ontario, York University's Glendon Campus offers a general bachelor's program in translation.
- In Manitoba, Collège universitaire de Saint-Boniface offers a general program in translation at the certificate and bachelor's levels.

For interpreters, general training is available at the college level, and more specialized training courses are offered by Canadian associations of translators and interpreters. We would point out

that the Canadian Translators, Terminologists and Interpreters Council offers certification in court interpretation.[24]

The availability of interpreters who are comfortable working in a courtroom setting is a problem in some regions of the country. Many stakeholders consulted during this study stated that the lack of technical knowledge on the part of some of their interpreters posed major problems that could adversely affect the smooth conduct of a hearing. The lack of skilled interpreters also forces some jurisdictions to bring in interpreters from other parts of the country, adding to costs.

Occupation: Probation officer												
Basic training: yes												
Basic training in the minority language: yes												
NL	PE	NS	NB	QC	ON	MB	SK	AB	BC	YK	NT	NU
				X	**X**							

Of the academic paths that may lead to the occupation of probation officer, one of the most common is criminology studies. A number of universities and colleges offer study programs in criminology. The following can be found in minority language communities:

- University of Ottawa offers a criminology program in French at the bachelor's, master's (applied criminology) and doctoral levels.
- In Quebec, Bishop's University offers a bachelor of arts program in English, with a minor in criminology.
- Some college programs in Quebec, such as Major Law and Society (Vanier College), Law Society and Justice (Dawson College) and Criminology Profile (Champlain Regional College), can provide preparation for a career as a probation officer.

Occupation: Legal secretary, law clerk												
Basic training: yes												
Basic training in the minority language: yes												
NL	PE	NS	NB	QC	ON	MB	SK	AB	BC	YK	NT	NU
					X							

At present, secretaries and law clerks (a category that includes, but is not limited to, paralegals) work essentially in the private sector, usually at law firms and notary offices. In fact, 90% of legal secretaries and 85% of law clerks are employed in the private sector.[25]

The position of paralegal is going through major changes. In Ontario, the Law Society of Upper Canada has regulated the paralegal profession since 2004, and it is therefore formally recognized and certified. Seven colleges in Ontario offer training for paralegals that is certified by the Law

[24] There are several components of certification in court interpretation, including the evaluation of language proficiency, legal terminology and procedures, consecutive interpreting and a mock trial. See http://www.cttic.org/certification.asp.

[25] Sources: Data from the 2006 Census of Statistics Canada.

Society of Upper Canada.[26] None of these programs, however, are offered in French. At the time of writing this report, no other province or territory has regulated the paralegal profession.

There is basic training in French for the position of legal assistant. Both Cité collégiale and Collège Boréal in Ontario offer a program for legal assistants that teaches legal vocabulary in both official languages.

4.5 On-the-job training

Since the number of curricula that offer training in both official languages is limited, on-the-job training becomes of significant importance. For some stakeholders, on-the-job training, be it formal or informal, is the only means available to them to develop a sufficient command of the legal discourse of their particular profession in both official languages.

There are a number of models of formal on-the-job training. For the purposes of this study, we have classified them according to whether they are offered by professional associations, by government bodies or by jurilinguistic centres.

Training offered by professional associations

By virtue of their mandate, professional associations systematically offer their members professional training. In the area of justice, there is a wide range of professional associations that cover most of the relevant occupations. The main issue for this study is therefore whether these associations systematically offer training to develop bilingual proficiency in legal vocabulary. From the information we gathered, we identified the following initiatives:

- *Commissioner for Federal Judicial Affairs*: Among the initiatives of the Office of the Commissioner for Federal Judicial Affairs is the provision of language training to develop proficiency in both official languages. The Office offers a French continuing education program to francophone judges working outside Quebec. It also offers French immersion sessions for anglophone judges (beginner, intermediate and advanced levels). These initiatives are made available mainly to federal judges, but are also open to provincial and territorial judges.

- *Provincial and territorial law societies*: The information gathered for this study indicates that basically law societies do not systematically offer language training. They may occasionally offer some training courses in French and English, but these are not designed specifically to develop a bilingual proficiency in legal vocabulary.

- *Associations of French-speaking jurists*: The associations of French-speaking jurists offer some language refresher training. There are seven associations of French-speaking jurists in Canada, all in common law provinces. While their language training activities vary somewhat depending on the region, they often take the form of one- or two-day training sessions on specific subjects.

[26] These programs are listed on the Law Society of Upper Canada Web site: http://www.lsuc.on.ca/paralegals/a/paralegal-education-program-accreditation/

Training offered by government bodies

The most significant official language training initiative of a government body is unquestionably the French Language Institute for Professional Development, in Ontario. The Ontario Ministry of the Attorney General runs this institute, established in 2005.

Its main clientele consists of justice professionals in Ontario, including Crown prosecutors, police officers and court employees (clerks, officers, etc.). The Institute usually reserves a minimum of five places in every week-long training session for Crown prosecutors from other regions of the country. A number of federal Crown prosecutors have also participated in its activities.

Participation in the activities of the Institute is conditional on the result of a language evaluation: only individuals with "intermediate^{+}" proficiency in spoken French are eligible to participate. This level of French proficiency is considered necessary to benefit from the training activities.

The training extends over a period of five consecutive days. The format includes presentations (on legislation and case law, for example), practical workshops (on the use of Antidote software, for example) and mock trials (conditional release hearing, preliminary hearing or guilty plea).

Training provided by jurilinguistic centres

There are four jurilinguistic centres in Canada:

- the Quebec Research Centre for Private and Comparative Law, at McGill University, in Quebec,
- the Centre for Translation and Legal Documentation, at University of Ottawa, in Ontario,
- the Legal Translation and Terminology Centre, at Université de Moncton, in New Brunswick,
- Institut Joseph-Dubuc, at Collège universitaire Saint-Boniface, in Manitoba.

These centres offer specialized training workshops on bilingual legal terminology. The centre most active in this area is Institut Joseph-Dubuc. Its workshops are given on request, are tailored to the clientele and usually take place over one or two days. Lawyers were the clientele initially targeted by the institute, although participants have also included individuals holding other positions within the judicial system. At the time of writing this report, the institute was in the process of developing training activities designed specifically for support functions in the judicial system, including clerks.

The supply does not meet the demand

The quality of the on-the-job training provided has largely been established. During the study consultations, the stakeholders consulted were unanimous in emphasizing the quality of these training activities. There is no question that stakeholders are learning new skills in their second language.

However, the number of available training activities clearly does not meet the demand. It is evident that only a fraction of justice stakeholders currently have access to the training activities

on offer. And that access is generally limited, in that these stakeholders are able to participate in only a few activities, often months or even years apart. This poses a problem. Not only are some stakeholders left to fend for themselves, but even those who do benefit from the available activities risk losing the skills they have learned because there are no opportunities to use and strengthen them.

4.6 Access to tools and reference material

Tools and reference material for the bilingual practice of law do exist but are limited, and stakeholders still have a great need for them.

Three of the country's jurilinguistic centres have developed reference material, including:

- the databases (lexicons, case law, etc.) on the Web site of the Centre for Translation and Legal Documentation (University of Ottawa),
- the databases (*Juriterm, Juridictionnaire)* of the Legal Translation and Terminology Centre (Université de Moncton),
- the *Private Law Dictionary of the Family and Bilingual Lexicons* and the *Private Law Dictionary of the Family and Bilingual Lexicons – Obligations*, of the Quebec Research Centre for Private and Comparative Law of McGill University.

While these are important tools for all justice stakeholders, they are used primarily by legal translators and writers. The other stakeholders (members of the judiciary, lawyers and clerks) may consult them as needed, but do not use them regularly.

For some stakeholders, the most pressing need is for model instruments. In the normal course of a criminal trial, certain documents on specific subjects, such as the release on bail, the record of the proceeding, Court orders and the judge's decisions, are used. Since the focus of this study is criminal law, which is national in scope, the content of these documents is relatively consistent. However, during the study consultations, a number of stakeholders stressed the lack of readily available model instruments.

Stakeholders who use their second official language only occasionally also need tools to maintain their skills or improve knowledge of their second language. Clearly, access to on-line tools alone, for example, is not a solution to the challenge these stakeholders face. But such tools can be used after more intensive training for self-directed learning or to maintain skills.

It seems reasonable to conclude that the development of tools applicable to the field of criminal law in both official languages is still in the early stages. The study consultations clearly suggest that in many respects, there is still much to do in this regard.

5.0 Priority strategies

This section of the report describes the strategies that seem most promising for meeting the training needs identified. We would recall that the terms of reference for this study were, first and foremost, to recommend to the Department of Justice Canada parameters to guide its action in the broad areas identified in the *Roadmap for Canada's Linguistic Duality 2008-2013*. The purpose of this report is not to dictate the action stakeholders should take or to describe in detail which initiatives the Department should support. Rather it is to describe the kind of interventions that will strengthen training activities already under way and address those areas where the needs have, at best, only marginally been met.

5.1 Guiding principles

Before discussing more specific courses of action, it is appropriate to establish the principles that guide these courses of action. Essentially, stating these principles will provide a better understanding of the more specific proposals that follow, by articulating broader considerations.

There are four guiding principles:

- *Targeted intervention*: This study is not without a context: quite the contrary. An investment of $20 million over five years is significant, yet it alone cannot meet all the needs identified in this study. It is therefore essential to target this new federal investment effectively if it is to help produce the desired outcomes, within the current five-year funding period.

- *The compensatory effect*: It is important to recognize that in many respects, official language training activities in the area of justice should help bring about a systemic correction to meet an intermittent demand in the minority official language. Very few courts in the country operate day-to-day in both official languages. More likely, one language predominates in the activities of courts and within their administrative structures. Yet the *Criminal Code* provisions regarding official languages are quite clear: in demographic terms, there may be a dominant language and a minority language, but both have equal standing in the criminal court system. Thus, equality of status must often be joined with demographic inequality. Certain initiatives are therefore necessary in order to provide a compensatory effect. It is precisely this purpose that training can serve. Besides developing new language skills, training activities help to keep the stakeholder connected to his second official language in the workplace.

- *Building on language retention*: Federal government action should systematically target stakeholders who are already functional in both official languages. Those who are not should have access to language training, but this training should not be funded by the initiative considered in this study. For the federal investment to help achieve the objectives set out in the *Roadmap for Canada's Linguistic Duality 2008-2013*, it must first and foremost provide stakeholders who are functional in both official languages with opportunities to use this knowledge in their work environment. The language profile of justice stakeholders confirms that a significant number of them are able to communicate in both official languages. The federal investment should therefore target this group.

We would stress that this target group must include members of both the minority and the majority language communities. In other words, training activities should enable both francophones and anglophones living, for example, in Winnipeg, to develop their ability to work in both official languages. It is possible that a Franco-Manitoban who has studied at an English-language university and practised law exclusively in English is as much in need of improving his workplace proficiency in French as someone whose first official language spoken is English and who is also proficient in French.

- *Vary the intensity of the intervention*: It seems essential to link intensive learning and regular learning activities. At the personal level, the degree of success will vary greatly from one individual to the next. In other words, if a stakeholder participates in an intensive learning activity, such as a training session over five consecutive days, he may not retain much of what he learns in the medium term if he has no access to other, regular learning activities. Similarly, providing access to half-day sessions or to an on-line language training tool may have limited success if the stakeholder never has an opportunity to immerse himself in more intensive learning activities for developing workplace proficiency in his second official language.

These, then, are the principles that guide the subsections that follow.

5.2 Basic training

It is evident that there is a problem of access to basic training to enable justice stakeholders to work in both official languages. The extent to which the new federal investment can rectify this situation may, however, be limited. Hence the significance of the guiding principle of well-targeted government action mentioned earlier.

Legal training

One area deserving particular attention is the legal training that is currently available. Canada is widely known for its unilingual law programs, offered in one of the official languages. The majority of lawyers in Canada therefore receive their common law training in English and their civil law training in French. There are 5 French-language civil law programs, plus the English-language civil law program (bilingual) at McGill University. On the common law side, there are 13 English-language programs, plus the French-language programs of Université de Moncton and University of Ottawa.

The French-language common law programs and the English-language civil law program are currently the only opportunities for law students to take this training in the other official language. More relevant still is the fact that these programs allow students to take courses aimed specifically at developing bilingual proficiency in legal vocabulary. It will be recalled, however, that only a minority of the country's lawyers receive their training in these programs.

Law schools could be asked to play a much more active role in training law students in the application of both official languages to the practice of law. This expanded role would also more truly reflect the language profile of the young Canadians who enrol in law schools, a growing number of whom are already able to communicate in both official languages.

Proposed strategy 1: The country's law schools should consider offering courses specifically in the practice of law in both official languages. Partnerships between law schools would seem entirely appropriate in the circumstances.

The special case of legal translators and court interpreters

There seem to be no major problems in accessing quality legal translation services. Several jurisdictions in the country rely on private companies for the translation of legal documents, while others, such as Manitoba, employ full-time translators. Access to qualified translators in the area of justice is facilitated by the fact that the work of translating does not require the translator to be in the same location as the client (be it a court, a law firm, or a legal aid office). Instead, the main challenge is finding skilled legal translators. The study consultations certainly confirmed the critical role played by translators, but raised no major concerns about access to these services.

Court interpreters are an entirely different matter. There are serious, even disturbing, problems accessing skilled interpreters in several jurisdictions of the country. Most court interpreters in the country are hired on a contractual basis. Unlike the translator, the interpreter must be physically present, which somewhat limits the pool of interpreters available to each court in the country. The study consultations confirmed that access to qualified interpreters is uncertain, and the ability of a general interpreter (that is, one with no specialized training in the field of law) to function effectively during a trial is questionable. Since interpreters are systematically used in bilingual proceedings, this problem merits the attention of stakeholders.

Proposed strategy 2: Access to qualified court interpreters in every region of the country should be the focus of a joint strategy of justice stakeholders (especially court administrators) and interpreters' associations, including the Canadian Translators, Terminologists and Interpreters Council.

The issue of support functions

A number of court support functions require no particular basic training. It is largely up to the individual employer to determine the qualifications needed for the positions, which include clerks, court reporters and registry officers. However, programs that specifically target these occupations are beginning to emerge, such as those of Durham College for clerks, court reporters and registry officers. At present, none of these programs are offered in French.

Given the pivotal role these various occupations, it is important to address this issue, while recognizing that the main objective of the initiative is to train individuals to be able to work in both official languages. While the establishment of programs in the minority language may be one avenue worth exploring, it is not the only one open to consideration. The inclusion of modules on bilingual court proceedings within existing majority language programs could also be considered.

Proposed strategy 3: It would be worthwhile including modules specifically on bilingual court proceedings in the training programs for clerks, court reporters and registry officers.

If programs in the minority language are considered at some point, reliable market studies should first be conducted. Training for these occupations is still largely optional, and in most regions the priority of employees in these occupations is to be able to function effectively in the majority language (regardless of the individual's first official language spoken).

Bilingual instruction for legal assistants

Legal assistants are, in some respects, a special class of support staff, since they are employed predominantly in law firms and notary offices in Quebec (although between 10% and 15% of them work in public administration and courts, as mentioned in section 0). Their role, which is to prepare various documents and maintain regular contact with clients, is a vital one. Their capacity to work in both official languages can determine the ability of the lawyer or notary who employs them to take on bilingual cases.

The training programs for legal assistants currently offered at Cité collégiale and Collège Boréal are a model in this regard. Although instruction is in French, both programs are designed to give students a bilingual command of legal vocabulary. It would be well worth expanding this model.

Proposed strategy 4: Institutions that offer training for legal assistants would do well to work in partnership with each other and directly with Cité collégiale and Collège Boréal to expand student access to training designed specifically to give them a bilingual command of legal vocabulary.

Bailiffs and probation officers

Bailiffs and probation officers currently have access to training programs related to their functions, but these programs are not qualification prerequisites unless the employer makes them a condition of hiring. In the case of probation officers in particular, they consist mainly of university courses in criminology, which are available in every region of Canada.

As in the case of lawyers, bailiffs and probation officers have access to programs in either English or French. Much of the problem lies in the fact that, in both instances, these programs do not necessarily give students a better bilingual command of legal vocabulary. It emerged from the study consultations that many probation officers, for example, have difficulty preparing a pre-sentence report in their second language.

Proposed strategy 5: Criminology programs should consider offering courses specifically on bilingual practice in both official languages. The partnering of various universities would also avoid any duplication of effort in this area.

5.3 Intensive activities

For on-the-job training, intensive learning activities are essential. Two such activities seem especially promising: applied training, and exchange programs.

Intensive applied training

Intensive applied training is probably one of the most important strategies for increasing stakeholders' bilingual proficiency in legal vocabulary. The experience to date of Ontario's French Language Institute for Professional Development provides a better understanding of the contribution such training can make. Throughout the study consultations, stakeholders who had participated in the Institute's activities praised this learning model.

The success of this type of training lies in its ability to offer modules tailored to each category of stakeholder while also lending itself to the recreation of scenarios involving the interaction of all stakeholders. This training, over a five-day period, can combine technical training sessions tailored to each target group (lawyers, clerks, registry officers, etc.) with mock trials in which participants play their respective roles.

Obviously, the difficulty for some stakeholders is simply lack of access to such training. The French Language Institute for Professional Development was established primarily to meet the needs of stakeholders in Ontario. Although the Institute has opened its doors to stakeholders from other jurisdictions, this initiative nevertheless remains a provincial one. The time has come to broaden this access.

Proposed strategy 6: The model of Ontario's French Language Institute for Professional Development should be extended to make it accessible across Canada. It seems imperative to adapt the modules to the needs of both lawyers and support staff, either by broadening the terms of reference of the current Institute in Ontario, or by replicating the model in other regions.

Exchanges

While Canada has a long tradition of exchanges in education and on-the-job training, the application of this model to the field of justice has so far been limited. According to the information gathered during this study, federal judges are virtually the only ones who have used this model regularly to improve their bilingual proficiency in legal vocabulary. It seems important at this time to offer such a program to other stakeholders.

Proposed strategy 7: Key stakeholders in the area of criminal law would benefit from exchanges allowing them to improve their bilingual command of criminal law vocabulary.

Since the purpose of an exchange is not to learn the fundamentals of a second language, but rather to develop proficiency in legal vocabulary in both official languages, this type of activity would be appropriate for the clientele considered in this study. Since this is a largely unexplored area, it is especially important to proceed in stages. Three considerations are worthy of note:

- Such exchange activities should target criminal justice stakeholders. This is the group targeted by the *Roadmap for Canada's Linguistic Duality 2008-2013* and for which the federal government is most directly responsible. Moreover, as criminal law is national in scope, it opens the way to the participation of lawyers trained in both common law and civil law.

- The exchanges should cover all key criminal court occupations. In particular, they should include the judiciary (judges appointed by the provinces and territories), justices of the peace, Crown prosecutors, lawyers working for legal aid agencies, clerks and probation officers. It would be a mistake to restrict such activities to the judiciary and Crown prosecutors, for example, since it is well established that the ability of a court to be institutionally bilingual depends on all positions considered in this study.

- The exchanges should be coordinated by a non-profit organization that has both a sufficient organizational capability and knowledge of the various court occupations.

While private practice lawyers could take part in such activities, their participation is far less certain. First of all, it is questionable whether it would be feasible for a lawyer in private practice to travel to another region to take a training course to become bilingually proficient in criminal law vocabulary. It is also doubtful that a firm would agree to host this lawyer owing to considerations of confidentiality and competition. It therefore seems appropriate to exclude private practice lawyers from the initial phase of such a project, but this decision could be reviewed at a later stage.

The implementation of such activities would undoubtedly require the partnering of a number of stakeholders. An entity should therefore first be given responsibility for managing the exchanges (taking applications, assigning exchanges, preparing activity reports, etc.). The provincial and territorial governments should also be directly involved in managing such a program. It should be recalled, however, that this model has been used with success, especially with Canadian students, for many years. Technical ability in organizing exchanges is therefore widely established in Canada.

The costs of exchange activities should be clearly defined. The federal investment could thus support the coordination and organization of exchanges, but participants would continue to be paid by their respective employer.

The interest of the various target groups in participating in such activities was clearly established during the study consultations. It seems that exchanges, whether for members of the judiciary, Crown prosecutors or clerks, are not only desirable, but entirely feasible from an operational standpoint.

5.4 Regular activities

Again with regard to on-the-job training, regular activities play an important role by enabling stakeholders to maintain and improve their bilingual proficiency in legal vocabulary. For the purposes of this subsection, these activities are divided into two groups: targeted training sessions, and learning tools.

Targeted training sessions

Targeted training sessions, lasting from half a day to two days, have proven effective but their availability is limited. During the study consultations, stakeholders reminded us that there are

still very few sessions offered in their respective jurisdictions. Broader access to such training would therefore seem to be a priority.

Proposed strategy 8: The various relevant stakeholders should develop a joint strategy for broadening access to targeted training sessions.

A number of stakeholders, including Institut Joseph-Dubuc, in Manitoba, have been offering this type of training for some years. It is apparent, however, that the supply of workshops does not meet the demand. In particular, there is a need for more trainers to meet this demand. However, the recruitment of qualified trainers poses a problem that needs to be addressed.

Proposed strategy 9: The recruitment and training of qualified trainers to teach targeted sessions should receive special attention.

Like intensive training activities, targeted training sessions should cover court support functions. Traditionally, these sessions have targeted prosecutors and lawyers in private practice. While these groups remain a target clientele, it is equally important to provide training in bilingual legal vocabulary to clerks, probation officers, bailiffs and legal assistants, to mention only the main support functions.

The training sessions currently offered make limited use of new information technologies. The study consultations indicated that these training courses are offered mostly on-line, with instructional material in paper format. In many respects, this approach seems to have contributed to the success of this type of training. However, it seems that the integration of new information technologies could prove helpful, even essential, to expanding this type of training.

Proposed strategy 10: Training stakeholders should consider increasing the IT content of their targeted training sessions.

The following suggestions emerged from the consultations:

- *Analysis of on-line teaching methods adapted to the field of justice*: It seems that little has been written specifically on the integration of new technologies in regular justice training. It may therefore be necessary to clearly define the methods available to stakeholders.

- *Centralization of teaching resources*: There is currently no central index of resources available for use by trainers teaching specialized sessions in the area of justice. A Web platform for such an index would be the most appropriate solution.

- *Communication centre for stakeholders*: The Web offers several options for stakeholders who develop or offer training in bilingual proficiency in legal vocabulary to exchange and communicate with each other. Intranet networks, blogs and on-line conferencing are all options that could be considered.

Learning tools

Tools for learning bilingual legal vocabulary is virtually non-existent. At present, justice stakeholders have access to a few bilingual reference tools on legal vocabulary. While these tools have an important role to play, they are not learning tools in the pedagogical sense.

Proposed strategy 11: Training stakeholders should consider developing learning tools that could be used independently of formal training sessions.

Learning tools, especially for access on-line, could be developed in conjunction with the tools described earlier in the context of the integration of new technologies in teaching bilingual legal vocabulary. These tools should have the distinctive feature of being useable independently of structured training. In other words, the goal would be to develop tools that justice stakeholders could continually consult to improve their bilingual legal vocabulary,[27] such as modules accessible on-line for free by creating a user account and profile. This would enable the stakeholder, for example, to spend 30 minutes a day on these modules and keep a personal record documenting his progress.

5.5 Complementary activities

This subsection touches on two subjects that are technically outside this study's terms of reference, but have sufficient bearing on it that their inclusion seems helpful. Since they are outside the scope of this study, no strategy is proposed.

The hiring criteria of certain positions

For many positions within the judicial system, there is no mandatory program of study. In fact, aside from lawyers and judges, individuals in the same occupational group may have entirely different academic backgrounds. This is true, for example, of justices of the peace, probation officers, clerks, court reporters, bailiffs and registry officers. It is therefore difficult to develop an action that targets core curricula in order to ensure a pool of candidates who are proficient in both official languages.

The hiring process is therefore especially important for ensuring that new hirees are at least functional in both official languages. Once hired, these employees can, if necessary, participate in training activities to improve their command of legal proficiency in both official languages. The study consultations revealed that the language criterion is increasingly used in recruiting new stakeholders. Even for positions not formally designated as bilingual, it seems desirable to target individuals with at least a functional knowledge of both official languages.

The role of promoting services offered in both official languages

Along with training activities, stakeholders should continue activities for promoting access to justice in both official languages. The goal is not just to remind persons appearing before the courts that it is possible to access the justice system in both official languages without compromising the quality of the service provided; it is also to remind young bilingual Canadians

[27] During the study consultations, several stakeholders suggested providing audio-visual tools that simulate legal proceedings in both official languages.

that they can work in this system in many occupations other than that of lawyer. As has been emphasized throughout this report, many academic paths can lead to a career in justice. In this context, general activities to promote access to justice in both official languages can reach a broader spectrum of bilingual young Canadians.

Some organizations, such as the associations of French-speaking jurists, have introduced promotional activities in recent years. It would seem desirable to expand the range of stakeholders active in this area to involve certain groups, such as the judiciary, more directly. If persons appearing before the courts are still reluctant to ask to be served in their language, it is primarily because they fear retaliation from the judicial system on the grounds that such a request is bothersome and unreasonable coming from someone who is proficient in both official languages. The study consultations indicated that, on the contrary, there is a desire at the highest levels of the judicial system, in every region of the country, to give full effect to the official language provisions of the *Criminal Code*. In fact, it is necessary to avoid the pitfall of stepping up training activities and thereby increasing the capacity to operate in both official languages, without dispelling this view on the part of some persons appearing before the courts that proceeding in the minority language is a “problem”.

In many respects, judges symbolize the judicial system, and they still enjoy a high degree of credibility with the public. It is therefore conceivable that the judiciary could play a more active role in informing citizens of their language rights, at law, without compromising their judicial independence. For example, if the chief judge of a provincial court were to publicly encourage the parties to a proceeding to exercise their language rights, this could have a significant impact.

6.0 Management structure of the new fund

The five year, $20-million federal training investment should have the proper administrative oversight. This section of the report deals with two specific elements: the role of a training advisory committee, and the process of fund allocation.

6.1 The training advisory committee

The management strategy for the new training investment must reflect the undeniable observation that justice is an especially technical field. Methodological and pedagogical considerations must guide the action of stakeholders in this sector, which is constantly evolving owing in particular to the integration of new information and communication technologies.

Not only is training a complex field, but its stakeholders often work within vast organizational structures. Some of the solutions proposed in this report require these institutions to work together. It is therefore necessary to recognize the scope of the challenge of implementing these strategic solutions.

In this context, it would seem desirable for the Department to establish a training advisory committee with the principal mandate of validating and guiding the Department's training initiatives. The role of the advisory committee would therefore be to assist the committees already in place in managing the Access to Justice in Both Official Languages Support Fund.

The advisory committee should be composed of a few individuals with recognized training expertise and applied knowledge of the institutional network in this area. The members of the committee should be selected in light of its mandate, which is to validate and guide the Department's actions. To this end, it would seem desirable to identify individuals with a good knowledge of colleges (asked to play an important role in training for court support functions), university curricula in the area of justice (especially law, criminology and translation) and the pedagogical application of new information and communication technologies.

The other committees already in place to support management of the Access to Justice in Both Official Languages Support Fund could also be asked to play a role in the implementation of the training initiative. The federal/provincial/territorial task force would also be asked to play a critical role in the effective use of the federal training investment. As each province and territory has its own structure, and the distribution of roles and responsibilities varies within the various stakeholder groups, the direct involvement of the provinces and territories is essential to ensure that federal investment adapts to these realities.

6.2 The process of fund allocation

Obviously, it is the responsibility of the Department of Justice to determine the process for allocating the new training funds. It seems appropriate, however, to point out two aspects in particular.

First, initiatives submitted by stakeholders should take into account the needs identified in this study. While other needs may emerge, those described in this study were identified during a Canada-wide consultation. For some occupations, such as clerks and court interpreters, these needs could be described as urgent from the perspective of the institutionally bilingual court.

Moreover, the fund allocation criteria should favour partnerships between various stakeholder groups and between groups working in minority language communities and those working in majority language communities. In many ways, bilingualism is the issue, and it is therefore important for all stakeholders to work closely with one another to exchange practices, share expertise and, above all, avoid duplication of effort.

7.0 Conclusion

Training is an essential component of the institutionally bilingual court. This study confirms beyond a doubt the relevance of a joint initiative to promote the learning of legal terminology in both official languages. This is all the more true as sociodemographic data confirm the existence of a sizeable pool of justice stakeholders with a basic knowledge of both official languages. Without proper training, these stakeholders will be unable to advance from a basic knowledge of the official languages to the ability to function in both languages in their work environment.

This study confirms that often the basic training offered to justice stakeholders improves their command of bilingual legal vocabulary only incidentally. In some cases, these programs of study could be improved to enable students to improve their bilingual proficiency in legal vocabulary. In other cases, it is doubtful that basic training can address the problem: on-the-job training should then be the preferred course of action.

On-the-job training activities are already in place, but access is too limited. The new federal training investment should broaden access to initiatives that have already proven successful. And new tools should be developed and made widely accessible.

The strategy used to meet training needs should include both intensive training and regular training activities. There is no choosing between the two, since the success of one determines the success of the other.

New training tools are also needed that enable stakeholders to maintain a direct, continuous link to legal terminology in both official languages. There is virtually no learning format that stakeholders can access to improve, at their own pace, their command of legal vocabulary in both official languages.

All stakeholders are asked to consider the strategies proposed in this report. The purpose of this study is not to dictate or impose specific initiatives, but rather to provide a frame of reference based on the training needs as perceived by justice stakeholders. The collaboration of stakeholders will therefore be essential to the success of this initiative.

APPENDIX A

EXTRACT FROM THE CRIMINAL CODE (OFFICIAL LANGUAGES)

PART XVII

LANGUAGE OF ACCUSED

Language of accused

530. (1) On application by an accused whose language is one of the official languages of Canada, made not later than

(*a*) the time of the appearance of the accused at which his trial date is set, if

(i) he is accused of an offence mentioned in section 563 or punishable on summary conviction, or

(ii) the accused is to be tried on an indictment preferred under section 577,

(*b*) the time of the accused's election, if the accused elects under section 536 to be tried by a provincial court judge or under section 536.1 to be tried by a judge without a jury and without having a preliminary inquiry, or

(*c*) the time when the accused is ordered to stand trial, if the accused

(i) is charged with an offence listed in section 469,

(ii) has elected to be tried by a court composed of a judge or a judge and jury, or

(iii) is deemed to have elected to be tried by a court composed of a judge and jury,

a justice of the peace, provincial court judge or judge of the Nunavut Court of Justice shall grant an order directing that the accused be tried before a justice of the peace, provincial court judge, judge or judge and jury, as the case may be, who speak the official language of Canada that is the language of the accused or, if the circumstances warrant, who speak both official languages of Canada.

Ibid

(2) On application by an accused whose language is not one of the official languages of Canada, made not later than whichever of the times referred to in paragraphs (1)(*a*) to (*c*) is applicable, a justice of the peace or provincial court judge may grant an order directing that the accused be tried before a justice of the peace, provincial court judge, judge or judge and jury, as the case may be, who speak the official language of Canada in which the accused, in the opinion of the justice or provincial court judge, can best give testimony or, if the circumstances warrant, who speak both official languages of Canada.

Accused to be advised of right

(3) The justice of the peace or provincial court judge before whom an accused first appears shall ensure that they are advised of their right to apply for an order under subsection (1) or (2) and of the time before which such an application must be made.

Remand

(4) Where an accused fails to apply for an order under subsection (1) or (2) and the justice of the peace, provincial court judge or judge before whom the accused is to be tried, in this Part referred to as “the court”, is satisfied that it is in the best interests of justice that the accused be tried before a justice of the peace, provincial court judge, judge or judge and jury who speak the official language of Canada that is the language of the accused or, if the language of the accused is not one of the official languages of Canada, the official language of Canada in which the accused, in the opinion of the court, can best give testimony, the court may, if it does not speak that language, by order remand the accused to be tried by a justice of the peace, provincial court judge, judge or judge and jury, as the case may be, who speak that language or, if the circumstances warrant, who speak both official languages of Canada.

Variation of order

(5) An order under this section that a trial be held in one of the official languages of Canada may, if the circumstances warrant, be varied by the court to require that it be held in both official languages of Canada, and vice versa.

Circumstances warranting order directing trial in both official languages

(6) The facts that two or more accused who are to be tried together are each entitled to be tried before a justice of the peace, provincial court judge, judge or judge and jury who speak one of the official languages of Canada and that those official languages are different may constitute circumstances that warrant that an order be granted directing that they be tried before a justice of the peace, provincial court judge, judge or judge and jury who speak both official languages of Canada.

R.S. (1985), c. C-46, s. 530; R.S. (1985), c. 27 (1st Supp.), ss. 94 and 203; 1999, c. 3, s. 34; 2008, c. 18, s. 18.

Translation of documents

530.01 (1) If an order is granted under section 530, a prosecutor — other than a private prosecutor — shall, on application by the accused,

(*a*)cause the portions of an information or indictment against the accused that are in an official language that is not that of the accused or that in which the accused can best give testimony to be translated into the other official language; and

(*b*)provide the accused with a written copy of the translated text at the earliest possible time.

Original version prevails

(2) In the case of a discrepancy between the original version of a document and the translated text, the original version shall prevail.

2008, c. 18, s. 19.

If order granted

530.1 If an order is granted under section 530,

(*a*) the accused and his counsel have the right to use either official language for all purposes during the preliminary inquiry and trial of the accused;

(*b*) the accused and his counsel may use either official language in written pleadings or other documents used in any proceedings relating to the preliminary inquiry or trial of the accused;

(*c*) any witness may give evidence in either official language during the preliminary inquiry or trial;

(*c.1*) the presiding justice or judge may, if the circumstances warrant, authorize the prosecutor to examine or cross-examine a witness in the official language of the witness even though it is not that of the accused or that in which the accused can best give testimony;

(*d*) the accused has a right to have a justice presiding over the preliminary inquiry who speaks the official language of the accused or both official languages, as the case may be;

(*e*) the accused has a right to have a prosecutor — other than a private prosecutor — who speaks the official language of the accused or both official languages, as the case may be;

(*f*) the court shall make interpreters available to assist the accused, his counsel or any witness during the preliminary inquiry or trial;

(*g*) the record of proceedings during the preliminary inquiry or trial shall include(i) a transcript of everything that was said during those proceedings in the official language in which it was said,

(ii) a transcript of any interpretation into the other official language of what was said, and

(iii) any documentary evidence that was tendered during those proceedings in the official language in which it was tendered; and

(*h*) any trial judgment, including any reasons given therefore, issued in writing in either official language, shall be made available by the court in the official language that is the language of the accused.

R.S. (1985), c. 31 (4e Supp.), s. 94; 2008, c. 18, s. 20.

Language used in proceeding

530.2 (1) If an order is granted directing that an accused be tried before a justice of the peace, provincial court judge, judge or judge and jury who speak both official languages, the justice or judge presiding over a preliminary inquiry or trial may, at the start of the proceeding, make an order setting out the circumstances in which, and the extent to which, the prosecutor and the justice or judge may use each official language.

Right of the accused

(2) Any order granted under this section shall, to the extent possible, respect the right of the accused to be tried in his or her official language.

2008, c. 18, s. 21.

Change of venue

531. Despite any other provision of this Act but subject to any regulations made under section 533, if an order made under section 530 cannot be conveniently complied with in the territorial division in which the offence would otherwise be tried, the court shall, except if that territorial division is in the Province of New Brunswick, order that the trial of the accused be held in another territorial division in the same province. R.S. (1985), c. C-46, s 531; R.S. (1985), c. 27 (1st Supp.), s. 203; 2008, c. 18, s. 21.

Saving

532. Nothing in this Part or the *Official Languages Act* derogates from or otherwise adversely affects any right afforded by a law of a province in force on the coming into force of this Part in that province or thereafter coming into force relating to the language of proceedings or testimony in criminal matters that is not inconsistent with this Part or that Act.

1977-78, c. 36, s. 1.

Regulations

533. The Lieutenant Governor in Council of a province may make regulations generally for carrying into effect the purposes and provisions of this Part in the province and the Commissioner of Yukon, the Commissioner of the Northwest Territories and the Commissioner of Nunavut may make regulations generally for carrying into effect the purposes and provisions of this Part in Yukon, the Northwest Territories and Nunavut, respectively.

R.S. (1985), c. C-46, s. 533; 1993, c. 28, s. 78; 2002, c. 7, s. 144.

Review

533.1 (1) Within three years after this section comes into force, a comprehensive review of the provisions and operation of this Part shall be undertaken by any committee of the Senate, of the House of Commons or of both Houses of Parliament that may be designated or established by the Senate or the House of Commons, or by both Houses of Parliament, as the case may be, for that purpose.

Report

(2) The committee referred to in subsection (1) shall, within a year after a review is undertaken under that subsection or within any further time that may be authorized by the Senate, the House of Commons or both Houses of Parliament, as the case may be, submit a report on the review to Parliament, including a statement of any changes that the committee recommends.

2008, c. 18, s. 21.1.

APPENDIX B
RESEARCH ISSUES

Research Issues		
Questions	**Indicators**	**Data sources**
General		
1. What are the main obstacles that minority language individuals encounter when they appear before the courts on a matter under federal jurisdiction? In what areas of the administration of justice are there obstacles that urgently need to be overcome?	– Study findings – Testimonials and observations – Informed opinions	– Literature review – Case study – In-person interviews – Panel of experts
Training component		
2. For which justice services careers do training institutions offer few or no training programs to prepare candidates to fill bilingual positions? What are the obstacles to the emergence of such programs?	– Review of the programs offered – Informed opinions	– Document analysis – In-person interviews
3. In which justice services careers are the most pressing needs for initial training in order to meet the demand for and obligations regarding services in both official languages?	– Review of the programs offered – Informed opinions	– Document analysis – In-person interviews – Panel of experts
4. What resources and tools do training institutions need in order to meet this demand and these obligations?	– Informed opinions	– In-person interviews – Panel of experts
Development component		
5. To what extent and, if applicable, how do court administrators determine the training needs of court personnel in order to meet the demand for and obligations regarding services in both official languages?	– Testimonials and observations – Informed opinions	– Case study – In-person interviews – Panel of experts
6. Which federal justice services careers are most in need of professional development courses?	– Literature review – Informed opinions	– Literature review – In-person interviews – Panel of experts

Research Issues		
Questions	**Indicators**	**Data sources**
Promotion and recruitment component		
7. What linguistic challenges are implied by the changing workforce profiles in justice services careers? For example, what is the language proficiency profile of new cohorts in these careers?	– Study findings – Socioprofessional profiles – Informed opinions	– Literature review – Census industry and occupation data – Panel of experts
8. What are the most important recruitment goals and the best means of reaching them? (related to Question 3)	– Informed opinions	– In-person interviews – Panel of experts
Training tools component		
9. What resources and tools do justice stakeholders (associations, law societies, courts) lack for meeting professional development needs?	– Informed opinions	– Document analysis – In-person interviews – Panel of experts
10. Which justice services careers currently have tools that support training or development, and what lessons are learned about expanding this offering to other careers?	– Review of available tools – Informed opinions	– Document analysis – In-person interviews – Panel of experts
11. How are training or development support tools disseminated to their target clienteles?	– Review of dissemination strategies – Informed opinions	– Document analysis – In-person interviews – Panel of experts
Coordination of the training component		
12. What mechanism for coordinating the training component would most likely ensure its effective and efficient implementation?	– Findings about existing mechanisms – Informed opinions	– Document analysis – In-person interviews – Panel of experts