

Report of the
Advisory Committee on
Francophone Affairs
Government of Saskatchewan



October 2016

Access to Justice in French

Letter of Transmittal

Ms. Nadine Wilson:

It is my pleasure to present this report of the Advisory Committee on Francophone Affairs following our meeting which took place on February 5, 2016, in Regina.

On this occasion we met with representatives from Francophone community organizations and the Ministry of Justice to discuss access to services in French in the area of justice.

By virtue of the *Canadian Charter of Rights and Freedoms*, Saskatchewan has obligations to provide French-language services in the areas of justice. The right to express yourself and be understood in the official language of your choice in proceedings before the courts and in debates of the provincial Assembly is also guaranteed under provincial legislation, the *Languages Act 1988*.

This report and the recommendations herein are meant to guide the Ministry of Justice in the delivery of French-language services in the court system and in other areas of the Ministry.

On behalf of our Committee, I am pleased to present to you today our recommendations in support of access to justice in French in Saskatchewan.

Sincerely,

A handwritten signature in blue ink, appearing to read 'MDubé', with a stylized, cursive script.

Michel Dubé
Chair of the Advisory Committee

October 2016

Executive Summary

Section 11 of the *Languages Act 1988* gives Francophones in Saskatchewan the right to use French in proceedings before the courts. In order to properly fulfill legislative requirements and better serve Francophones in Saskatchewan, the Ministry of Justice has put procedures in place to hear cases in French or accommodate French-speaking citizens with interpretation services. These measures include, but are not limited to, hiring bilingual judges, clerks, and other officers of the court, bilingual signage, French-language terminology training and interpretation services. Recent data from the Ministry shows there are approximately 20 to 25 cases heard entirely in French each year in Saskatchewan. In addition, there are approximately 20 additional cases where interpretation services in French are required.

Being involved in court proceedings can be a stressful experience. It is important for Francophones to have the opportunity to express themselves in their mother tongue and be guaranteed they are understood.

The Committee and the Ministry agree that the best way to offer French-language services in the court system is to have cases heard entirely in French without the use of interpreters. In order to do so, the Ministry needs to have a sufficient amount of bilingual personnel professionally trained in French-language court terminology. Mastery of the French language for court officials involved in French-language cases is as critical as the need for officials to master the English language when involved in English-language cases.

While the long term objective is to hear cases entirely in French, we expect interpretation services, will continue to be needed. Consequently, it is important for the Ministry to continuously improve interpretation services and policies.

The Committee recognizes the efforts of the Ministry towards offering French-language services, and the recommendations in this report are meant to build on the work currently done.

Recommendations:

1. That the Ministry of Justice incorporate an active offer approach in the delivery of French-language services in the court system.
2. That the Ministry of Justice create and promote French-language pages on the sasklawcourts.ca website.
3. That the Ministry of Justice increase its use of bilingual signage in court houses and automatically install bilingual signs when updates are needed.



4. That the Ministry of Justice include contractual interpreters in French-language training offered to employees involved in French-language cases.
5. That the Ministry of Justice consider the designation of additional bilingual positions in order to facilitate the ability of the courts to hear cases entirely in French.
6. That the Ministry of Justice adopt a formal process to ensure the confidentiality of interpreters and prevent conflicts of interest.
7. That the Ministry of Justice provide more information about the translation of Acts and Regulations in its submission to the Government of Saskatchewan's Annual Report on French-language Services.
8. That the Ministry of Justice incorporate access to justice in French as part of its annual planning and reporting processes.

Committee Mandate

In 2003, the Government of Saskatchewan adopted its French-language Services Policy. With this Policy, the Government of Saskatchewan committed to “enhancing services offered to the Francophone community of Saskatchewan in support of the development and vitality of this community.”¹

The Policy is organized according to three areas:

1. Communication;
2. Development and delivery of services; and,
3. Consultation.

The mandate of the Advisory Committee on Francophone Affairs is to advise the Legislative Secretary through the review and analysis of programs and policies to guide the implementation of Saskatchewan's French-language Services Policy.

¹ Government of Saskatchewan French-language Services Policy :
<http://www.saskatchewan.ca/~media/files/executive%20council/bonjour/french%20language%20services%20policy.pdf>



Context

The Advisory Committee on Francophone Affairs met with officials from the Ministry of Justice and community representatives on February 5, 2016 to discuss access to justice in French in Saskatchewan. The Committee believes more can be done to enhance services in French and puts forward the following recommendations to the Ministry of Justice. In addition, the Committee commends the Ministry and the *Association des juristes d'expression française de la Saskatchewan* (AJEFS) for their efforts and new initiatives they are undertaking.

According to the 2011 Census, the number of people with French as a mother tongue increased for the first time in 50 years. This can partly be attributed to Francophones from other provinces and abroad moving to Saskatchewan resulting in increased demand for French-language services.

By virtue of the *Canadian Charter of Rights and Freedoms*, Saskatchewan has obligations to provide French-language services in the areas of justice. The right to express yourself and be understood, in proceeding before the courts and in debates of the provincial assembly, in the official language of your choice is also guaranteed under provincial legislation, the *Languages Act 1988*.

Despite this, Francophones may not be aware of their right to use French in the court system. Without a clear indication from the start that court services are offered in French, individuals will have an inclination to follow the process as it is presented to them.

In addition, challenges such as the translation of documents and language barriers with court officials can also be a deterrent and push French-speaking individuals to proceed in English.

Recommendation # 1

That the Ministry of Justice incorporate an active offer approach in the delivery of French-language services in the court system.

According to a 2010 study from the Canadian Centre for Research on Linguistic Minorities, having an active offer in the delivery of services greatly increases demand for French-language services. The study, which surveyed 600 citizens from French-speaking communities in Nova Scotia, explains that the demand for French-language services depends on how these services are explicitly offered.



In this regard, the study found that:

- 13.6 % of respondents ask for French-language services when services are not actively offered;
- Approximately 50 % of respondents ask for French-language services when there is signage in French;
- 68.5 % proceed in French when greeted with “Hello, Bonjour”.
- 86.9 % continue the conversation in French if the service delivery officer can speak French with ease.²

Providing an active offer for French-language court services ultimately means that individuals are notified from the start of the process that services are available in French. Individuals can be notified of their right to use French through interactions with bilingual staff, bilingual signage and website information in French. The next two recommendations are also based on the active offer approach for the delivery of services.

Recommendation # 2

That the Ministry of Justice create and promote French-language pages on the sasklawcourts.ca website.

The role of promoting French-language services should be a collective effort and a shared responsibility for all provincial ministries, agencies and crown corporations with support from the Francophone Affairs Branch. One simple way to offer such services is creating French-language content on ministry websites. The Francophone Affairs Branch can help with the translation of content.

The sasklawcourts.ca website can be the first point of contact an individual has with the court system. Adding French-language content on the homepage of the courts' website will show users that citizens have the right to use French in the court system. Additional pages in French should also be considered, such as descriptions of the different courts and major processes.

The Ministry's website on saskatchewan.ca also offers an opportunity to inform citizens on the right to use French in the court system.

² The Utilization of French-language Government Services :
<http://icrml.ca/en/research-and-publications/cirlm-publications/download/146/8671/47>



Recommendation # 3

That the Ministry of Justice increase its use of bilingual signage in court houses and automatically install bilingual signs when updates are needed.

Bilingual signage is another way to inform citizens of the right to use French in the court system. For example, having a *Bonjour!* sign at service desks signals the availability of French-language services. In addition, bilingual signage normalizes French-language services. It recognizes the legitimacy of the French language in the court system and makes Francophones feel welcome.

The Ministry currently has bilingual signage in some of its court houses. The committee recommends that in cases where renovations are being done, new signage be automatically bilingual.

Recommendation # 4

That the Ministry of Justice include contractual interpreters in French-language training offered to employees involved in French-language cases.

The Ministry of Justice currently offers French-language training for its employees who provide court services in French. Continuing to offer training is essential to the smooth running of French-language cases without misunderstandings. As previously mentioned, mastery of the French language is as important in French-language cases as mastery of the English language is in English-language cases.

In addition, interpreters often involved in French-language cases have requested training on legal interpretation in order to serve the court as best as possible. The Committee was recently informed that the Ministry is working on a pilot project to offer training to interpreters working for the courts. It is important for the Ministry to build capacity in this area even if interpretation work is awarded through contracts. This will allow the Ministry to rely on professional and properly trained court interpreters.



Recommendation # 5

That the Ministry of Justice consider the designation of additional bilingual positions in order to facilitate the ability of the courts to hear cases entirely in French.

The Government of Saskatchewan's French-language Services Policy states "that the designation of bilingual positions be considered as a means to more effectively provide French-language services".³

The Committee agrees with Justice officials that the best way to offer French-language court services is when all individuals involved in court proceedings, from the clerk to the judge, can speak French. Given the Ministry's legal obligation to provide services in French, increasing the number of bilingual positions will strengthen the courts ability to hear cases entirely in French.

It is our understanding that bilingual court officers often travel to courthouses other than those at which they are stationed. While this measure helps the Ministry to provide bilingual services in areas in need, another solution would be the designation of more positions so that resources are not stretched and services are not taken away from a region to give to another. Moreover, the designation of bilingual positions does not incur additional costs for the Ministry.

Recommendation # 6

That the Ministry of Justice adopt a formal process to ensure the confidentiality of interpreters and prevent conflicts of interest.

Section 14 of the *Charter of Rights and Freedoms* guarantees the right to interpretation services for any party or witness who does not understand the language in which the proceedings are conducted.⁴ For this reason, the Ministry regularly hires interpreters for dozens of different languages.

Jurisdictions across the country operate differently with respect to court interpretation policies. Provinces regularly rely on freelance interpreters for non-official languages and some provinces such as Ontario, Manitoba and Nova Scotia have internal capacity for official languages interpretation. The Saskatchewan Ministry of Justice does not have internal capacity for interpretation and solely relies on freelance interpreters.

³<http://www.saskatchewan.ca/~media/files/executive%20council/bonjour/french%20language%20services%20policy.pdf>

⁴ <http://laws-lois.justice.gc.ca/eng/Const/page-15.html>



In this environment, it is important for the Ministry to ensure freelance interpreters are held to a high standard with respect to conflicts of interest. In the case of the closely knit Francophone community of Saskatchewan, there is a possibility that interpreters hired for French cases know the parties involved in proceedings. In order to preserve the impartiality of the court, the Ministry should require interpreters to disclose any ties with defendants, plaintiffs and officers of the court, and to take an oath of confidentiality.

Recommendation # 7

That the Ministry of Justice provide more information about the translation of Acts and Regulations in its submission to the Government of Saskatchewan's Annual Report on French-language Services.

The Committee understands Acts and Regulations that are being translated can only be publicly discussed once they have been tabled in the Legislature.

The Ministry of Justice currently reports on the number of bilingual Acts and Regulations that have been adopted through the Government of Saskatchewan Annual Report on French-language Services. In addition, the Committee believes the Ministry should give reasoning on:

- Which Acts were translated;
- Why these Acts and Regulations were chosen for translation;
- How the legislation is contributing to improving access to justice in French in Saskatchewan;
- How the legislation reflects the priorities and needs of the Francophone community.

The Ministry of Justice highlighted the fact that decisions to translate legislation rests with the ministries responsible for these Acts. If members of the Francophone community would like a specific Act to be translated, a formal request can be made to the Minister responsible for the Act.



Recommendation # 8

That the Ministry of Justice review access to justice in French services in its annual plan and annual report.

Annual planning and reporting exercises help to focus activities on the desired outcomes. Including the delivery of French-language services in the Ministry's strategic planning and subsequent reporting will raise awareness internally and provide better alignment with the goals of the Ministry. For example, addressing French-language services on an annual basis will help the Ministry fill voids created by bilingual employees who leave a position that is important in providing French-language services.

Conclusion

The Committee believes the Ministry is committed to its role of providing services in French in the court system. The recommendations in this report reinforce the work currently done and aim to reach excellence in service delivery practices.

After meeting with community representatives, it is clear that the Francophone community in Saskatchewan values its right to use French in the court system. However, all individuals are not aware of this right or can be reluctant to use it if doing so involves delays or complications. This is why every effort should be made to adopt an active offer in the delivery of services and hear cases entirely in French without the use of interpreters whenever possible. When interpreters are required, it is important that they are properly trained and that policies are put in place to prevent conflicts of interest.

The Committee believes these recommendations will help in the promotion of French-language services and ensure the legislative requirements of the Ministry are fulfilled.



ADVISORY COMMITTEE ON FRANCOPHONE AFFAIRS

LIST OF APPOINTED MEMBERS

Michel Dubé (Chair), Prince Albert

Mr. Michel Dubé was born in Duck Lake, Saskatchewan. He has been involved with the Fransaskois community for a long time, notably in community development and education. He was a member of the board of the Assemblée communautaire fransaskoise (ACF) from 1999 to 2010, first as community representative from the Prince Albert district and then as president from 2006 to 2010. He is currently the president of the Société canadienne-française de Prince Albert.

Mr. Dubé has been a journalist, consultant and entrepreneur. He has owned several businesses including a produce farm and a fishing lodge. He is now owner of a small store featuring local goods and operates a bison farm north of Prince Albert.

Élizabeth Perreault, Hoey

Ms. Élizabeth Perreault and her husband own and operate a farm in Hoey. Ms. Perreault has volunteered within many organizations in her community, including the local Francophone association and the Francophone school in her area. She has represented the St-Isidore school district (Bellevue) on the Conseil scolaire fransaskois since 2008.

Martin Prince, Delmas

Mr. Martin Prince is one of the owners of Prince Valley Farm Ltd., a family farm operation. He has a BA in political science and history from the University of Ottawa and a Bachelor of Science (agriculture business and food management) from the University of Alberta. He sat on the Provincial Youth Advisory Committee between 2001 and 2003. Mr. Prince volunteers with his local parish, the Francophone community centre and Francophone school. He and his wife have four children.

Luc Leblanc, Regina

Mr. Luc Leblanc was raised in New Brunswick where he earned a diploma in sheet metal fabrication and later earned his Red Seal Journey Person Certification. He is currently the president of Luxury Mechanical/LMC Projects, a business specialized in residential mechanical ventilation systems. As a volunteer, he sits on the board of directors at Centre éducatif Gard'Amis (a Francophone daycare) and is a ringette coach. Mr. Leblanc and his wife have worked with youth facing substance abuse issues. He is a regular speaker at Portage Atlantic Adolescent Substance Abuse Rehabilitation Program Center and its parent support program.



Jean Nepo Murwanashyaka, Regina

Mr. Jean Nepo Murwanashyaka has lived in several countries and in several regions of Canada before settling in Saskatoon. He is now living in Regina. Working with a firm of engineers in the mining sector, he has developed knowledge and expertise in project management, process engineering and problem analysis. Mr. Murwanashyaka is also very active in the French-speaking African community of Saskatchewan.

Guylaine Patenaude, Saskatoon

Ms. Guylaine Patenaude was born in Manitoba but moved to Saskatchewan at a very early age. She worked for more than 10 years with the Association jeunesse fransaskoise (youth organization) and just recently received her certification in special events coordination. In 2010, she was awarded the Prix Jeune femme remarquable du Canada by the Alliance des femmes de la francophonie canadienne (alliance of Canadian Francophone women).

Joanne Perreault, Hoey

Ms. Joanne Perreault worked for more than 10 years with the Assemblée communautaire fransaskoise (ACF), several years of which as deputy director. Living in Hoey, Ms. Perreault is self-employed, providing consultation and coordination services, and continues to be involved with the Fransaskois community.

Françoise Sigur-Cloutier, Regina

Originally from France and established in Saskatchewan for more than twenty-five years, Ms. Sigur-Cloutier has worked within the Francophone community both at the provincial and national levels. Having completed postsecondary studies in philosophy and education, she has also studied in the area of administration. Ms. Sigur-Cloutier worked as director of communications for Radio-Canada and is presently employed as a consultant. Ms. Sigur-Cloutier is president of the Assemblée communautaire fransaskoise.

