

PORTRAIT OF THE JUDICIAL SYSTEM IN FRENCH IN NOVA SCOTIA

Results of Surveys Conducted by AJEFNE



February 2012

The purpose of this research on the accessibility of French-language legal services in Nova Scotia was to better identify the needs of the Acadian and francophone community in order to determine where services are needed. The research also focussed on promoting awareness about language rights and issues related to access to justice in both official languages with the Acadian and francophone community and the legal community.

A first survey was conducted with questions about the judicial system to evaluate the knowledge of the Acadian and francophone community with respect to French-language legal services offered in Nova Scotia. This report is consequently the analysis of all responses gathered from the Acadian and francophone community of Nova Scotia.

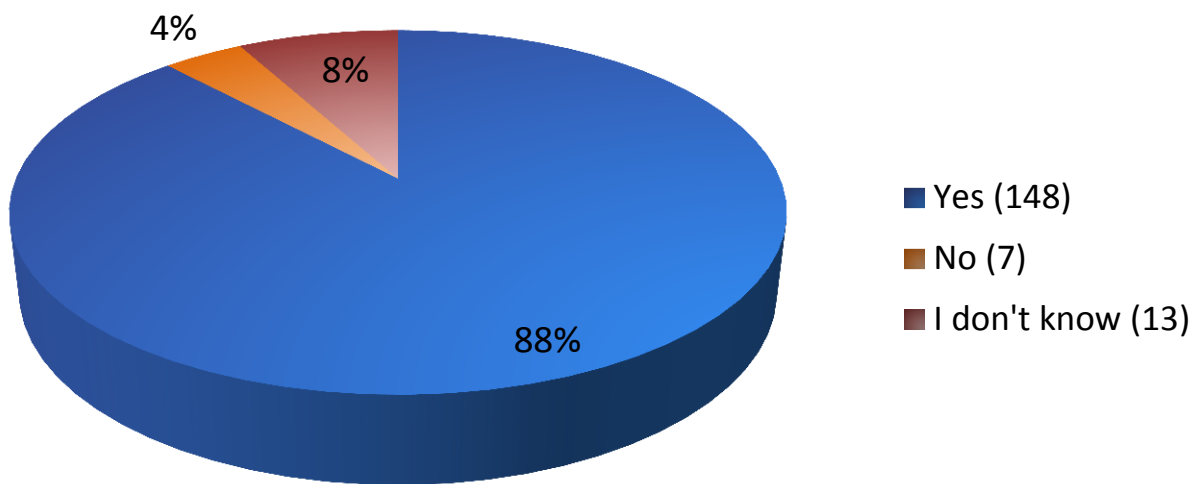
A second survey was conducted evaluating the linguistic capabilities of those who work in the judicial system throughout Nova Scotia such as judges, lawyers, police officers, clerks, sheriffs, probation officers, administrative staff, court management and others. The results of this survey will enable us to evaluate where there is local capacity for French-language services to be offered in the judicial system of the province of Nova Scotia and thus to better target our future interventions to meet the needs of the Acadian and francophone community.



SURVEY ON FRENCH LEGAL SERVICES FOR THE ACADIAN AND FRANCOPHONE COMMUNITY

168 persons filled in this survey

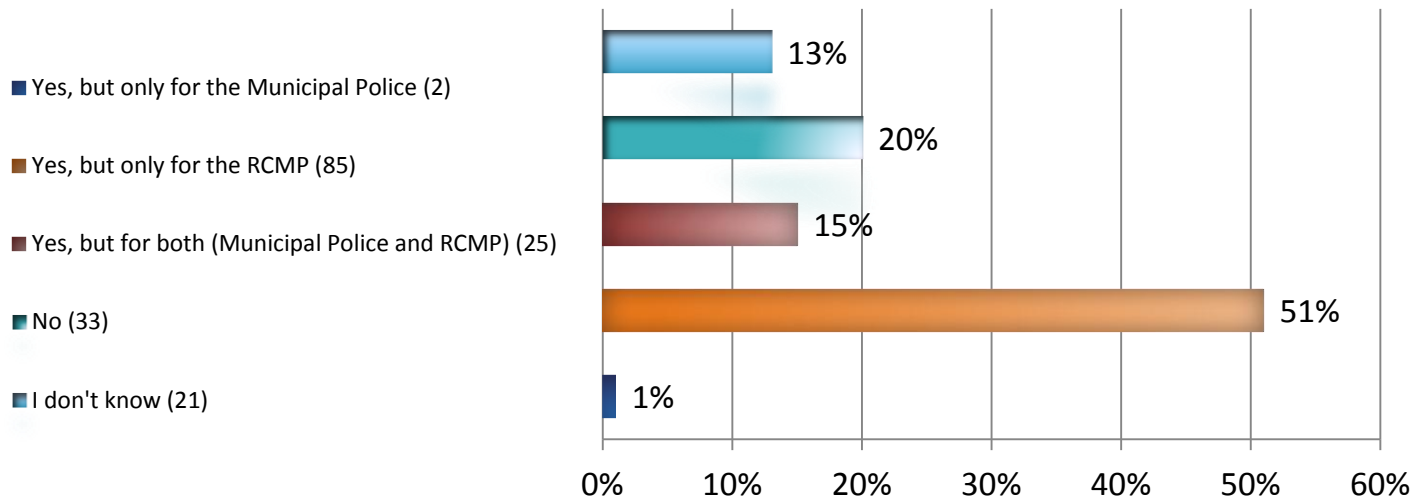
1— As you are driving around Chéticamp, on the road patrolled by the RCMP from the office located in Chéticamp, you are detained for speeding. In your opinion, do you have the right to receive your services in French by the RCMP Officer?



YES

- *Official Languages Act*, R.S.C. 1985, c. 31 (4th Supp.), sections 21 to 24;
- *Official Languages Regulations*, sections 5(1)(l)(vi), 6(1)(a) and 6(1)(f).

2 — In your opinion, do the Municipal Police and the RCMP have the same obligation to serve you in French?



NO

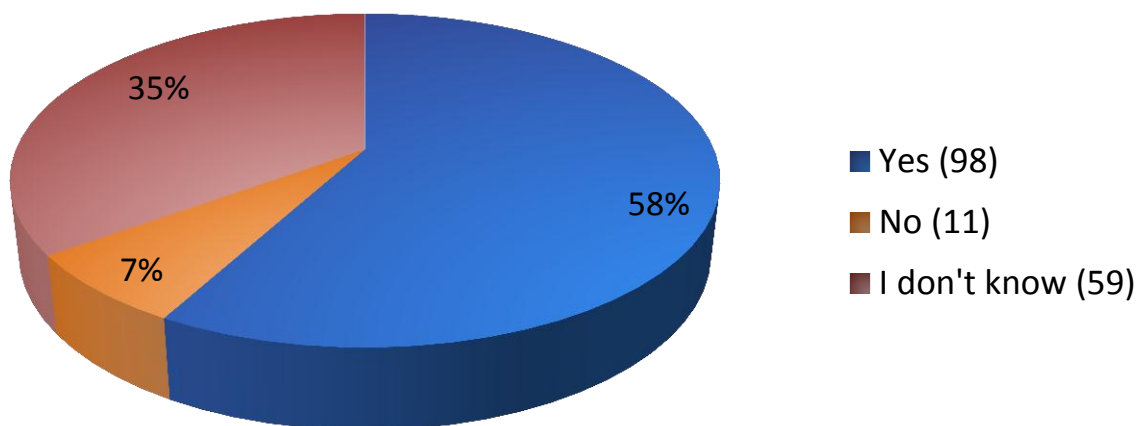
Municipal Police are under provincial administration under the *Police Act* and the language of administration is English. Municipal Police have no formal obligation to provide services in French. However, there is potential to develop their French-language services under the *French-Language Services Act* in Nova Scotia. This is especially true if there is a demand from the Acadian and francophone community as Police officers provide essential services for public safety and security. See Section 8 of *French-language Services Regulations*:

8 In establishing specific goals and objectives in accordance with clause 5(1)(d), a designated public institution must give priority to services to which one or both of the following apply:

- (a) there is a demand from the Acadian and francophone community for the services to be provided in French;
- (b) failure to provide the services in French may compromise the health, safety or security of members of the public.

Fortunately, in the rural regions in Nova Scotia, the RCMP often acts as Municipal Police due to an agreement with the province. The RCMP is one of the federal institutions with obligations pursuant to the Part IV of the *Official Languages Act* (OLA).

3— In your opinion, do you have the right to get married in French in a Court House in Nova Scotia?



YES

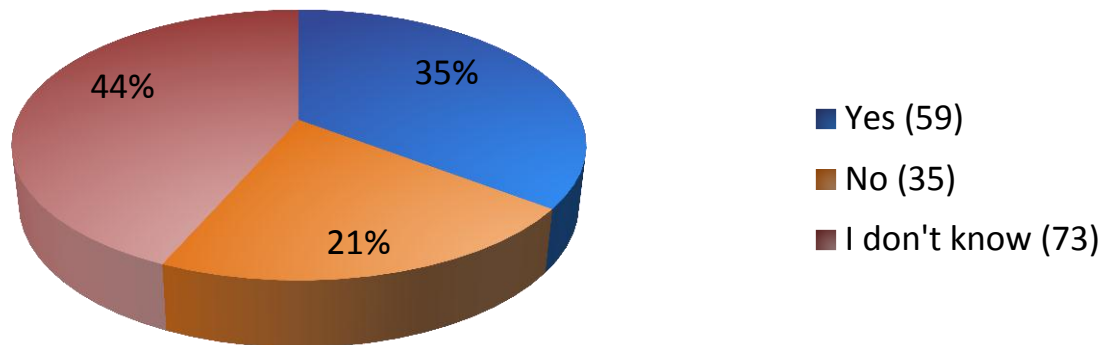
The *Solemnization of Marriage Act* is solely in English because marriage is under provincial jurisdiction.

However, the marriage ceremony could be done in French with bilingual Justices of the peace.

There is a specific text which has to be pronounced for a marriage in Court House and this text has been translated into French.

-Solemnization of Marriage Act, R.S.N.S. 1989, c. 436, s. 4(3) (see Appendix)

4— You have to go to the Court House in Yarmouth to file for a divorce. In your opinion, will you have access to French forms?



NO

The divorce is under the federal jurisdiction according to the Canadian Constitution. However, because divorce proceedings are under the administration of the province, there is no obligation by the province to provide French forms without a demonstrated need.

The Civil Procedure Rules of the Supreme Court of Nova Scotia have been translated into French, as well as the divorce forms linked with the Rules.

The Rules are available on this Web site in French, but not the forms:

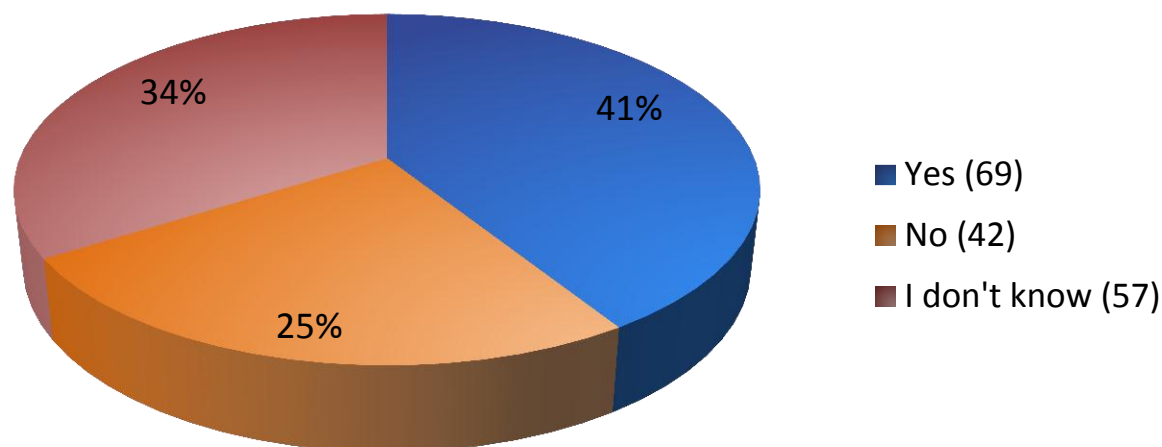
http://www.courts.ns.ca/Rules/rules_in_french.htm

The Nova Scotia Department of Justice provides administrative and operational support services to the Supreme Court. The Department has certain obligations pursuant to the *French-language Services Act* of Nova Scotia, as a « designated public institution ».

Citizens should ask for forms in French to demonstrate a need to the Department, which may eventually be required to provide these services, mostly if the Acadian and francophone community prove that the lack of French services could have a detrimental effect on their health, safety or security.

Starting in Spring 2012, the Parent Information Program for parents going through a divorce will be available in French. For more information, you can communicate with the Court House in your region or AJEFNE : 902-433-2085 dq@ajefne.ns.ca.

5— You contact the Court House in your region to receive some information in order to determine issues with respect to custody and access and child support payments. In your opinion, will you have access to French information and forms?



YES AND NO

It depends on the region and the possibility of finding a French-speaking court clerk. The protocol is that if no one on staff is able to assist you in French, the clerk must take your name and contact information and arrange to have someone contact you.

There is no guarantee that services are available in French, but with the initiative «Bonjour », it's decreasingly rare. It's obvious that the community must continue to make requests in order that services continue to increase in availability.

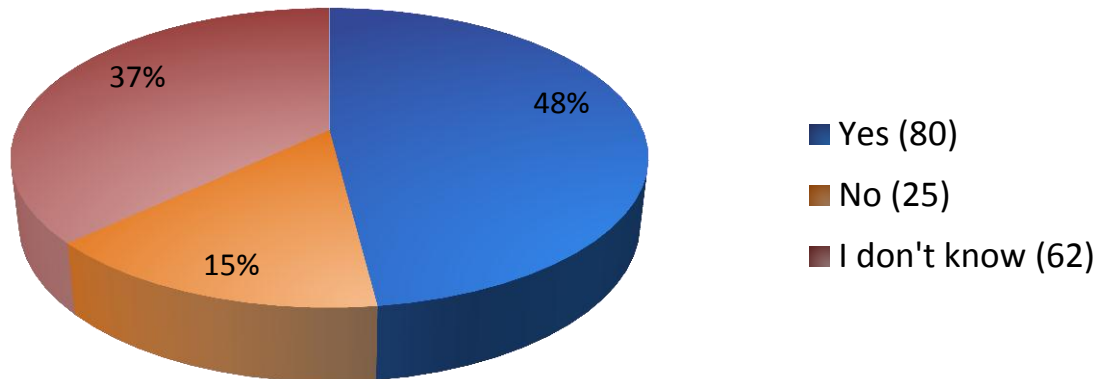
The court forms are only available in English but many websites are available in French:

<http://www.gov.ns.ca/just/MEP/online-fr.asp>

<http://www.gov.ns.ca/just/flic/regulations-fr.asp>

Family law services are much more readily available in French in Halifax Regional Municipality because of the higher concentration of francophone immigrants and consequent development of services at the Nova Scotia Supreme Court Family Division. In the rural regions in Nova Scotia, everywhere except Sydney and Halifax, where the Family Court has jurisdiction and is a provincial court, there is very little development of French-language services.

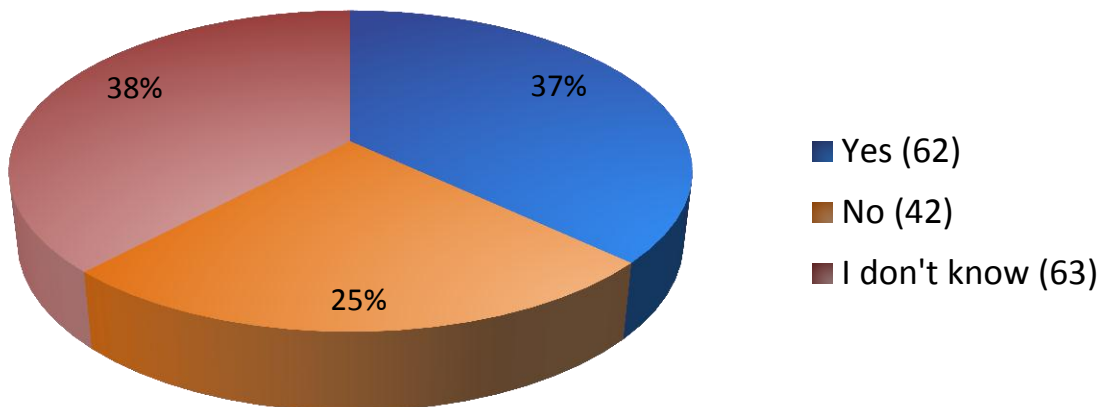
6— In an action for divorce, will you have the option of expressing yourself in French in Court?



YES

Instead, the true question might be: « If I insist on speaking French, will anyone understand me? ». You may have the possibility of having a hearing in French, but you would have to wait for a French speaking judge or interpreter, which could mean a significant delay. There is no constitutional obligation for divorce proceedings to be held in French.

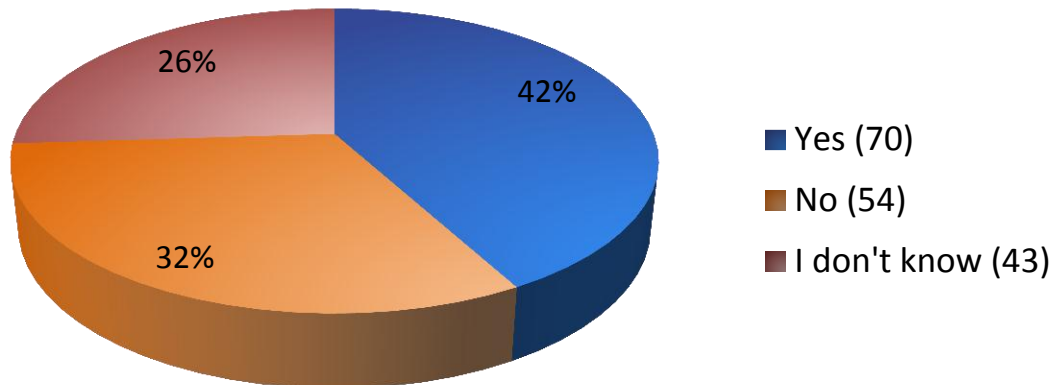
7— You decide to separate from your husband or wife and you wish to file a separation agreement with the court for enforcement. In your opinion, could you file your separation agreement in French with the court?



YES

However, you will also have to supply the separation agreement's translation in English.

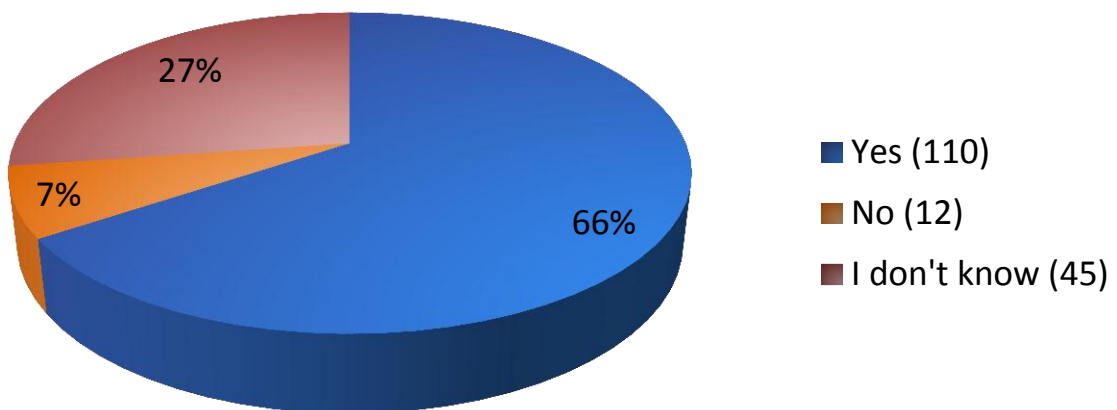
8— As a result of an argument with your neighbour, you are advised by a Police Officer that your neighbour has lodged a complaint against you. In your opinion, could you receive French-language services from the Police Officer?



YES AND NO

It depends on whether it's the Municipal Police or the RCMP, and the possibility varies significantly depending on where you are.

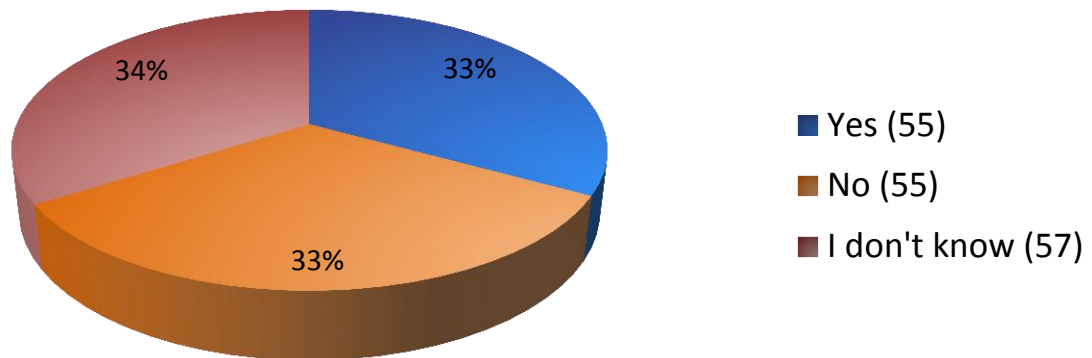
9— You decide to pay your daughter a visit in Saint-Mary's Bay. You are detained by the police because you failed to stop at a stop sign. You decide to contest the fine. In your opinion, could your trial be conducted before a judge who understands and speaks French?



YES

- See Section 530 of the *Criminal Code*, R.S.C. 1985, c. C-46.

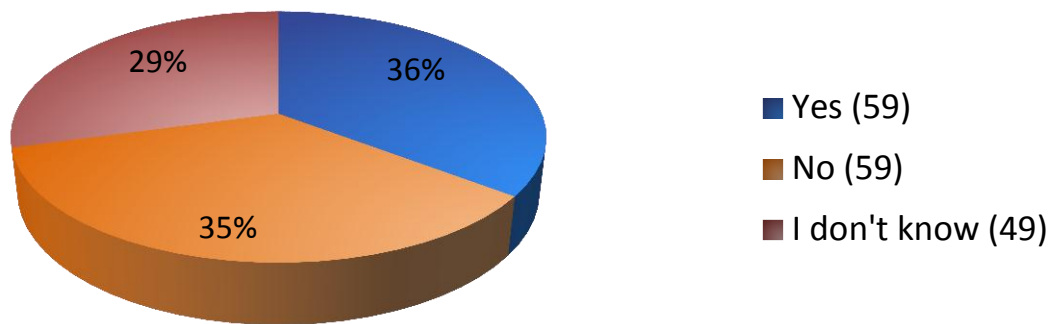
10— As a result of a change of employment, you have to move to the Pomquet region. To do this, you have to sell your house in order to buy a new one. In your opinion, could you do these transactions in French?



NO

If you are lucky to have a French-speaking lawyer, you will still have to prepare all documents in English because the Land Registries are under provincial administration and operate solely in English.

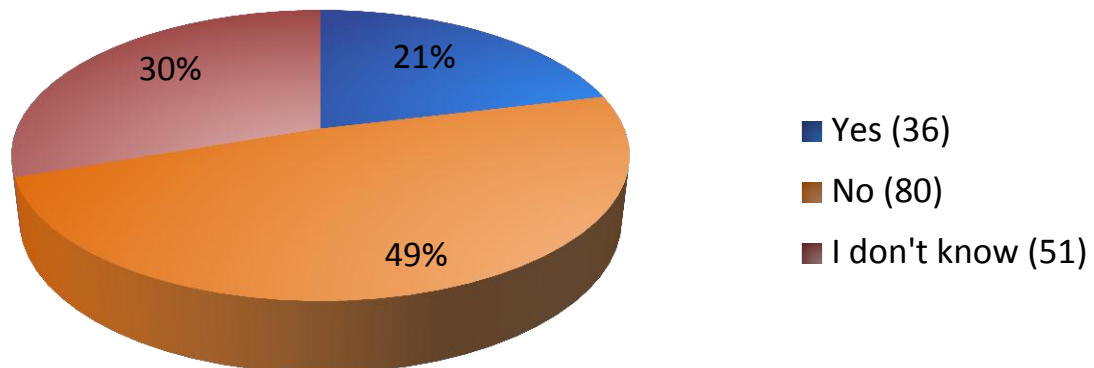
11— While you are driving on Highway 102, you witness a car accident. In your opinion, could you speak in French in order to explain to the Police Officers what you saw?



YES AND NO

There is no obligation by the Municipal Police or the RCMP in the civil context. If you wish to give a statement on the premises immediately after the accident, even in a francophone region, it will depend on the availability of a French-speaking Police Officer. You could ask to give a statement to a French-speaking Police Officer, but without any constitutional guarantee to receive this service.

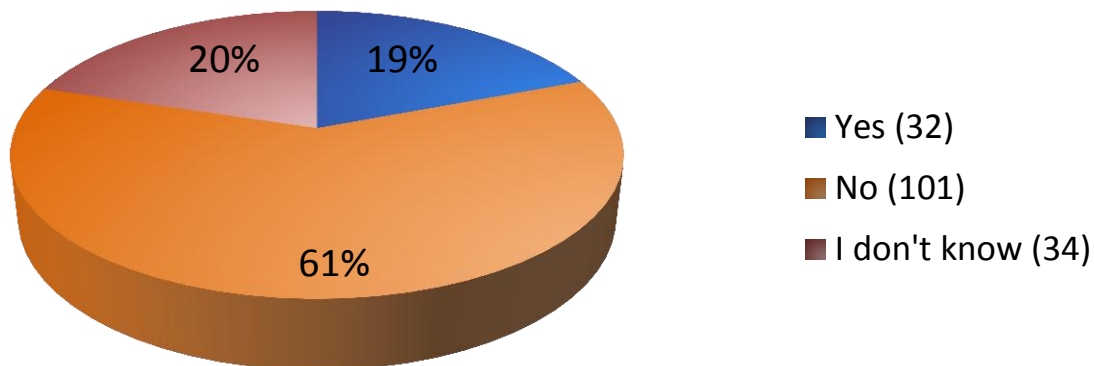
12— You accompany a friend to the Port Hawkesbury Justice Centre as he has been subpoenaed to testify in court. Just before entering the courtroom, you decide to go to the washroom. In your opinion, will the signage inside the Court House be available in French?



YES

Effective March 2012, the Justice Centres in Port Hawkesbury and Port Hood will have bilingual signage. The provincial courts in Halifax, Dartmouth, Yarmouth, Digby, Comeauville and Annapolis Royal already have bilingual signage.

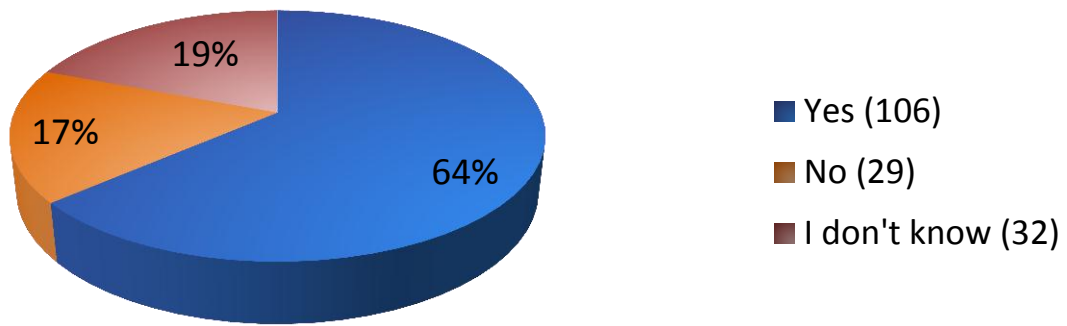
13— You want to pay a parking ticket at your local town hall. In your opinion, could you receive service in French?



YES AND NO

Municipalities don't have any constitutional responsibility to provide French-language services. However, some municipalities with higher francophone populations have taken the initiative to develop these services. For example, the Town of Yarmouth's website offers the option to pay parking tickets online in French. For the Halifax Regional Municipality, there is no staff able to offer French-language services at the reception desk, but they have some French resources online, or you may call (902) 490-4000.

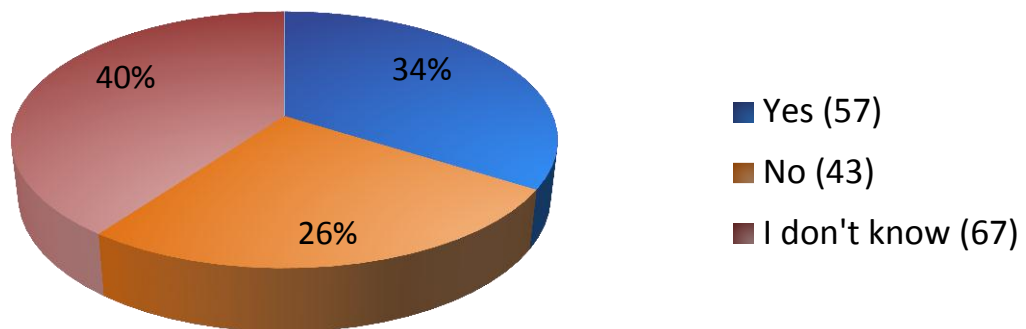
14— You are going to meet a lawyer in order to draft your will. In your opinion, could you draft it in French?



YES

You could certainly draft your will in French.

15— As result of the death of a loved-one, you want to probate their will. In your opinion, could you probate their will in French with the Registrar of Probate?

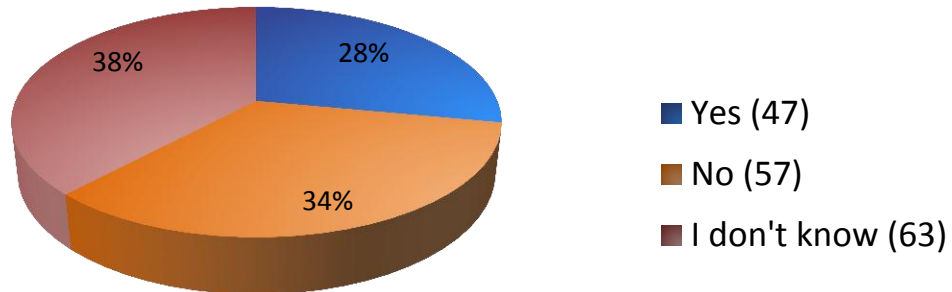


NO

Unfortunately, it is currently impossible to probate a will in French in Nova Scotia. The translation of the document will be necessary because the Registrars operate only in English. Section 12 of the *Probate Court Practice, Procedure and Forms Regulations* provides that only wills written in English or their translations in English are accepted. AJEFNE has been working for several years to promote the probating of wills in French.

Registrars are under Nova Scotia Department of Justice's administration. If the Acadian and francophone community demonstrate a demand for French-language services, the Department may have an obligation to include this request in its annual plan pursuant to the *French-Language Services Act*.

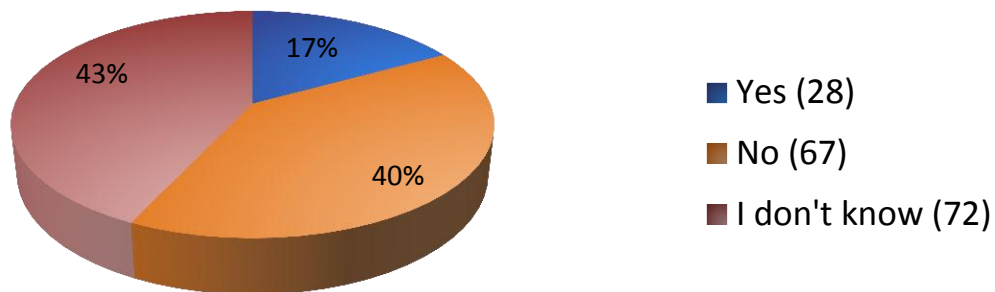
16— Your neighbour cuts your cedar hedges without your permission in order to build a fence around his property. Moreover, he sends you a bill for half of the expense incurred for the fence’s installation. You decide to sue your neighbour in Small Claims Court. In your opinion, could you file a Small Claims Court Notice of Claim in French?



NO

The Small Claims Court does not have any obligation to accept Notices of Claim in French. However, the Small Claims Court is under the Nova Scotia Department of the Justice’s administration. If the Acadian and francophone community make a request for French-language services, the Department may have an obligation to address this demand in its annual plan pursuant to the *French-Language Services Act*.

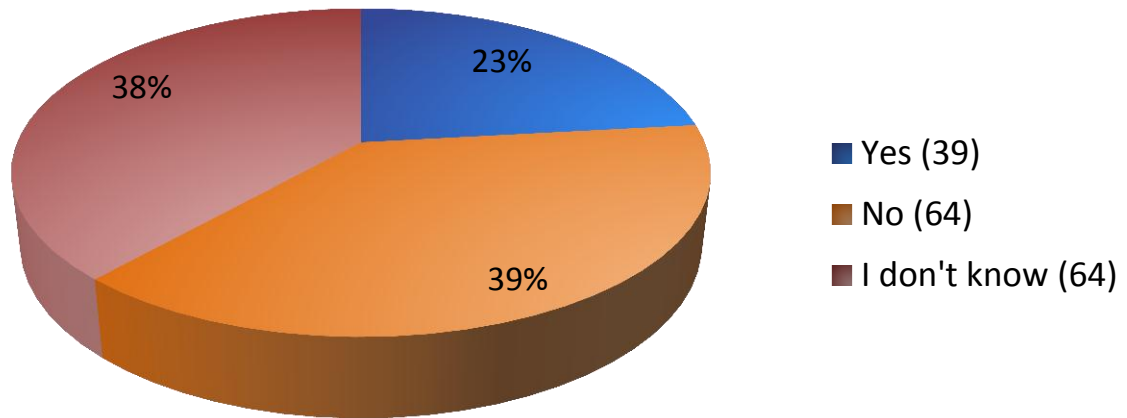
17— If you were able to file a Small Claims Court Notice of Claim in French, in your opinion, will the hearing proceed in French?



NO

It would be very rare to have a francophone adjudicator at the Small Claims Court because there is no formal obligation to develop this service in French. However, the Small Claims Court is under Nova Scotia Department of Justice’s administration. If the Acadian and francophone community make a request for French services, the Department may have an obligation to address the demand in its annual plan developed pursuant to the *French-Language Services Act*.

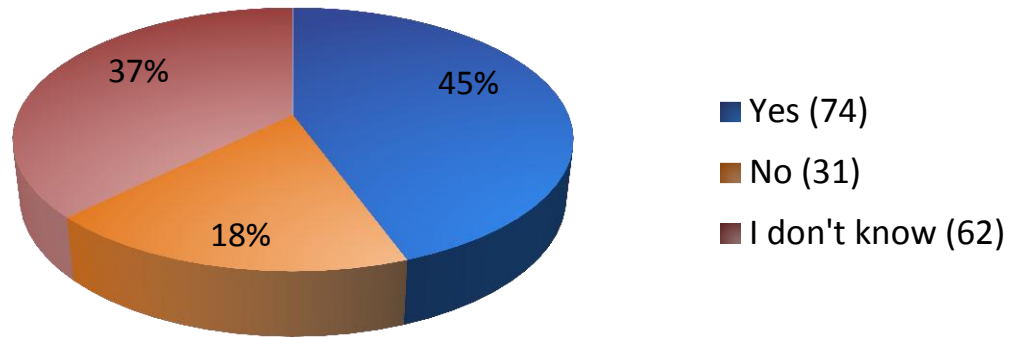
18— You decide to hold back your rent because your landlord has still not completed some much needed renovations, in spite of you making many requests. Your landlord makes an Application to the Director of Residential Tenancies under the *Residential Tenancies Act* against you. You are served with a Notice ordering you to appear for a hearing. In your opinion, could you have access to French-language services for the purposes of this hearing?



NO

There is no formal obligation to develop this service in French. However, the Director of Residential Tenancies coordinates mediation sessions between landlords and tenants (as well as hearings if they become necessary), and is appointed pursuant to the *Residential Tenancies Act* and under the administration of Service Nova Scotia and Municipal Relations, one of the designated public institutions under the *French-Language Services Regulations*. Thus, if there is a demonstrable demand by the Acadian and francophone community for these services in French, Service Nova Scotia may have an obligation to incorporate this demand into its annual plan developed pursuant to the *French-language Services Act*.

19— You need legal advice, but due to your low income, you decide to make an application to Nova Scotia Legal Aid. In your opinion, could you receive French-language services from a lawyer working for Legal Aid?



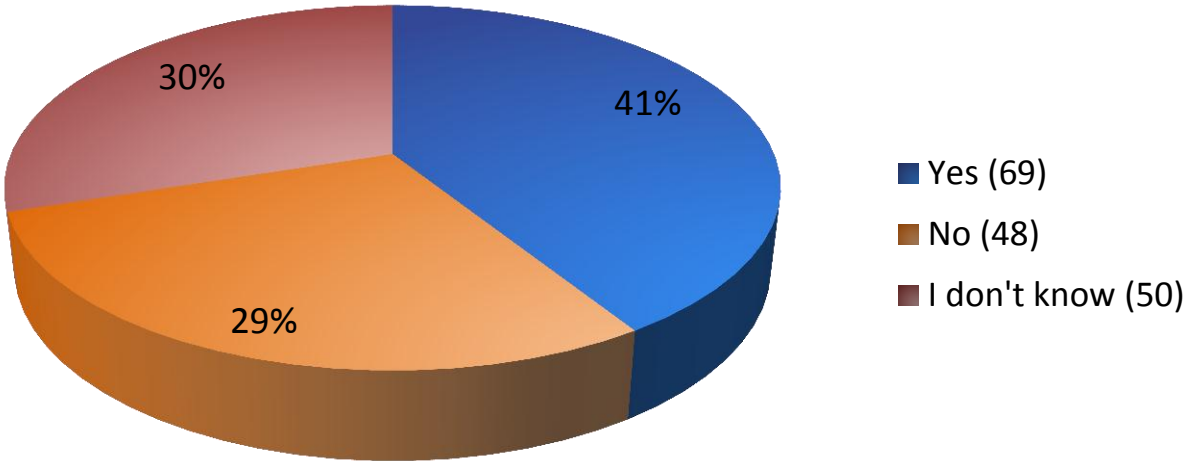
YES AND NO

The Nova Scotia Legal Aid Commission is a designated institution under the *French-Language Services Act*. So, if the Acadian and francophone community express a demand for French services, the Nova Scotia Legal Aid Commission may have an obligation to consider this demand in its annual plan.

Presently, some bilingual lawyers work for Legal Aid and could offer French services if they are in the same region as the person seeking the service and are able to provide the service required.

Nova Scotia Legal Aid's website is now bilingual: fr.legalaid.ns.ca.

20— When you leave the doctor’s office, you slip and fall on the snow-covered sidewalk in front of the clinic’s entrance. In your opinion, could you make an insurance claim in French?



NO

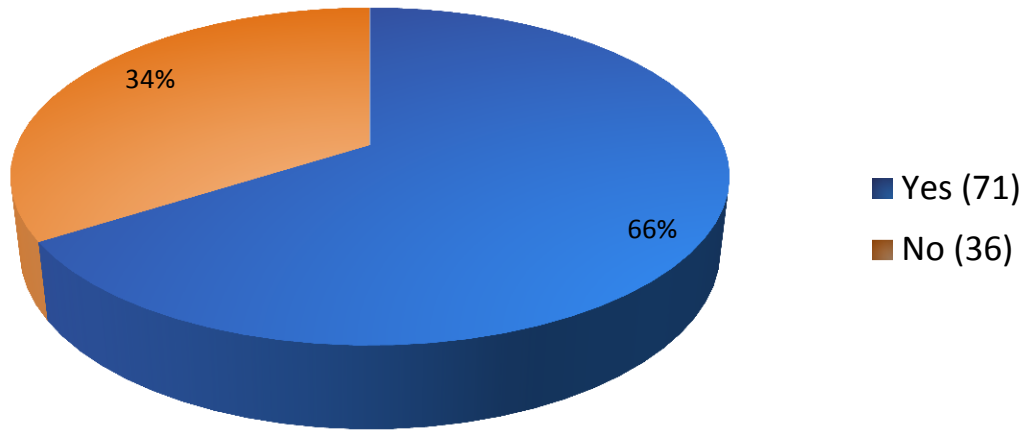
The question of liability would first have to be determined, or in other words, whose negligence has caused your injuries. It is not likely to be your own insurance company that pays all expenses linked to the injuries. You will likely have to consult a lawyer to determine how to proceed. The person whose negligence you allege to have caused your injuries will have to contact their own insurance company. Fortunately, many insurance companies offer bilingual services.

For the services you receive at the hospital which are covered by Health Nova Scotia, it will be your doctor who will bill them directly.

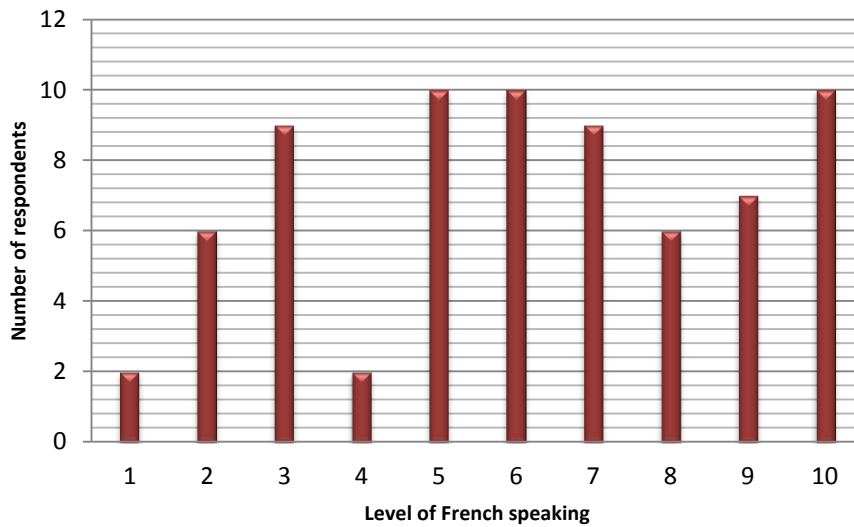
SURVEY ON THE LINGUISTIC CAPABILITIES OF THOSE WHO WORK IN THE JUDICIAL SYSTEM OF NOVA SCOTIA

107 persons who work in the judicial system of Nova Scotia filled in this survey.

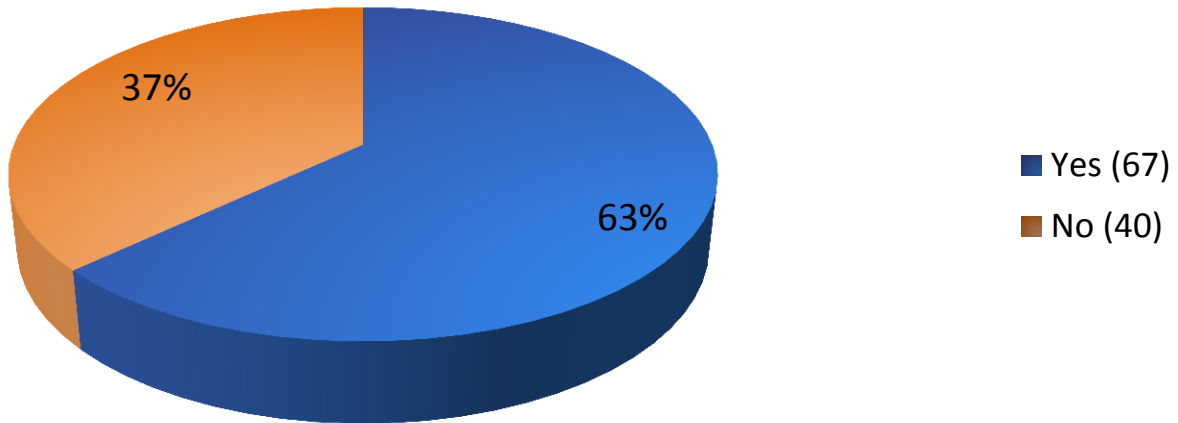
1- Do you speak French?



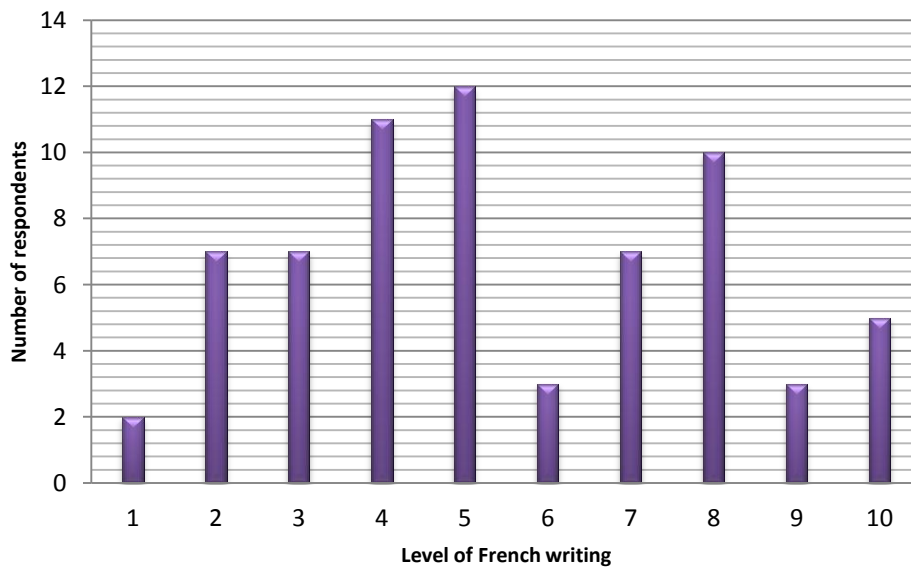
2- If yes, what is your level of French speaking ability on a scale from 1 to 10 (10 being perfect fluency)?



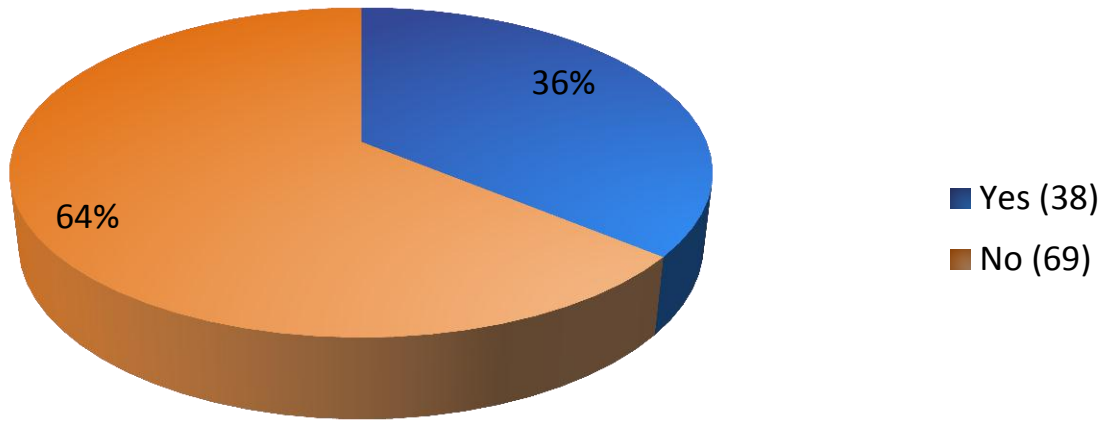
3- Can you write in French?



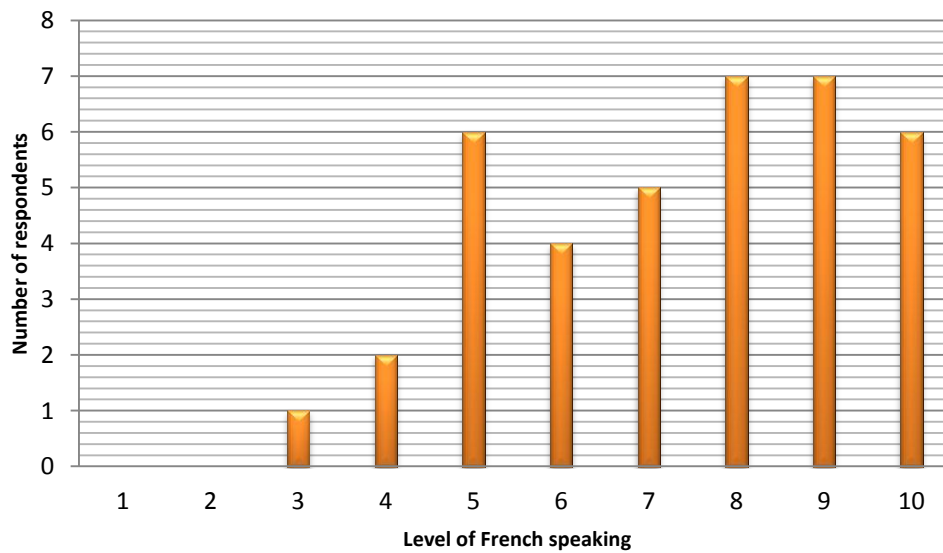
4- If yes, what is your level of French writing on a scale from 1 to 10 (10 being perfect fluency)?



5- Can you offer French legal services verbally?



6- If yes, what is your level of French speaking ability in this field on a scale from 1 to 10 (10 being perfect fluency)?



7- Can you describe, briefly, what services you can offer in French?

The Judges' answers varied greatly. Some Judges could hear criminal trials in French. They can read and authorize warrants and perform all legal functions in French.

The lawyers' answers were also very diverse. Some are able to offer many legal services in French because they are bilingual and some even completed their law degree in French. Others specify the areas of practice they can offer legal services in French to their clients: wills, criminal litigation, contract law, constitutional law, real estate transactions, civil litigation. Finally, some concede they can only answer general questions and provide general information to their clients in French. Often, it is because they do not know the legal terms in French.

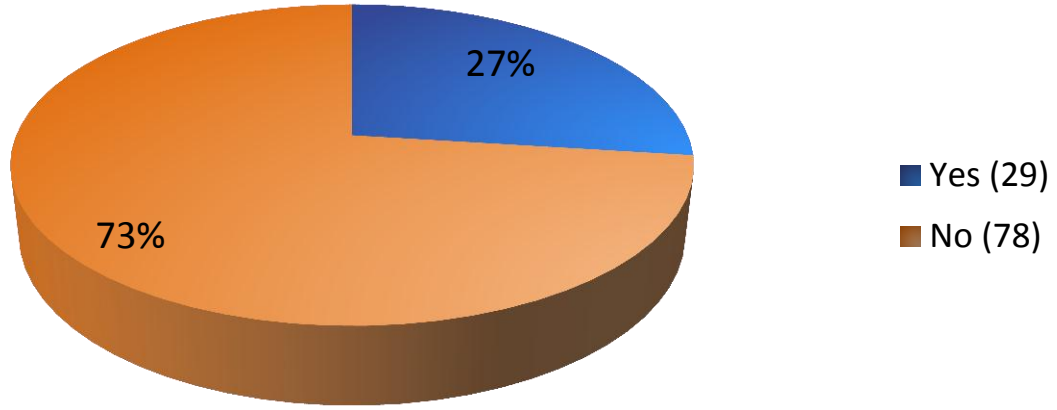
Some crown attorneys are able to give advice to the government and to the RCMP in French. Others could perform all crown attorneys' typical functions in French. Finally, one crown attorney said that he could communicate with people concerning their inquiries at the Public Prosecution Service of Canada.

The police officers could advise people of their legal rights and translate information for persons under arrest, as well as documents for colleagues and partner agencies. They could also help some people in transit at the airport.

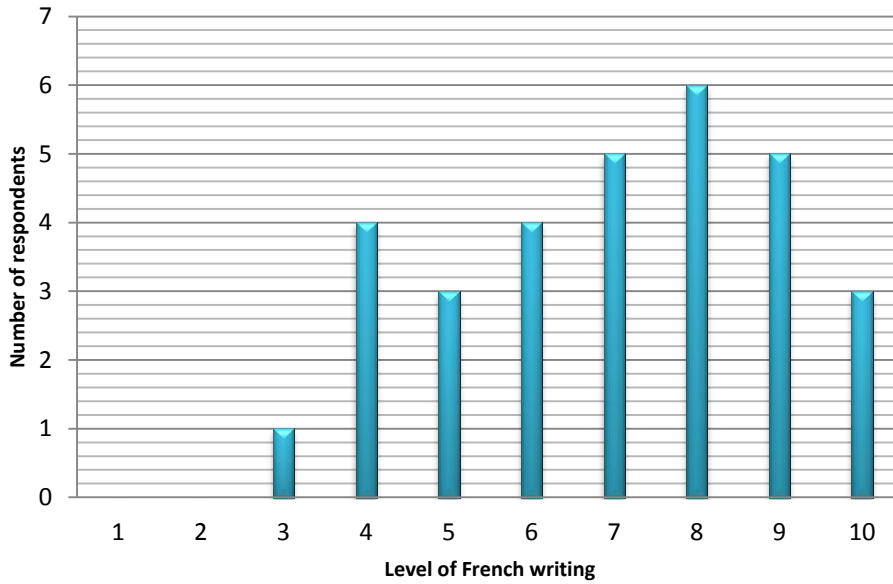
A probation officer could offer his services in French in the preparation of Presentencing Reports.

Among the remaining people who completed the survey, one person said that he could have a basic conversation and explain the Maintenance Enforcement Program. Another person could offer help and advice services in federal government institutions. Some people could speak in French in order to answer some questions about the Family Court and answer all kinds of basic questions. Finally, one person could offer basic information and support to his clients but no legal services.

8- Can you offer French legal services in writing?



9- If yes, what is your level of French writing in this field on a scale from 1 to 10 (10 being perfect fluency)?



10- Can you describe, briefly, what services you can offer in French?

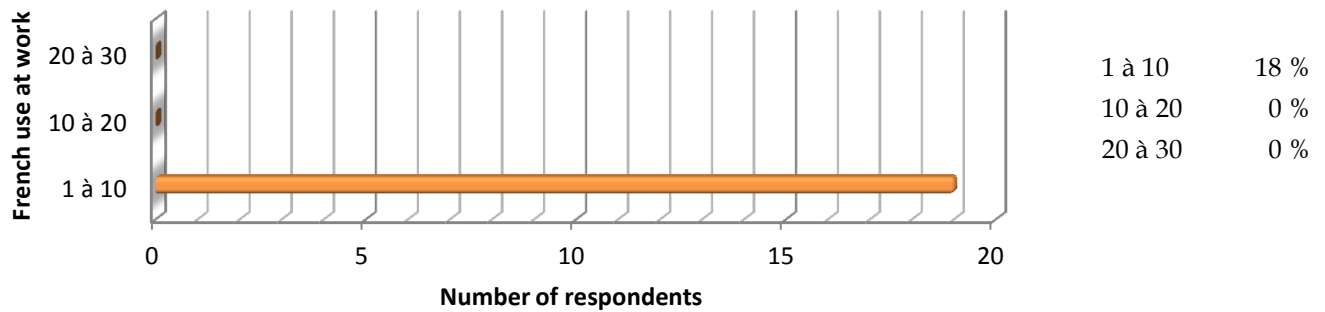
To this question, most of the respondents, in particular the bilingual professionals, answered that they could offer the same services verbally and in writing. Thus, all services in French could be offered by some respondents. « However, the Court in Nova Scotia doesn't accept documents in French so the prepared documents have to be in English », said a lawyer.

Some Judges have answered: "Judgment in criminal cases. Write letters and decisions in French". Another Judge said that he could prepare a Court order in French in using bilingual forms of the Courts of Nova Scotia on their Website.

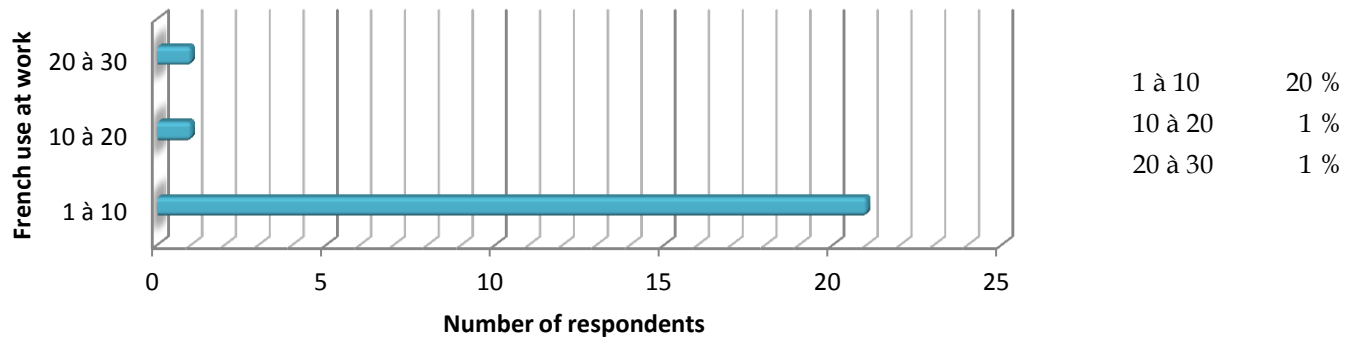
Some respondents have explained that they could write presentencing reports, letters, and briefs as well as translate legislation into French. One respondent added that he could write a letter with the help of a dictionary and ``Termium``.

Some police officers have studied law in French and could offer some advice and analysis to their employers in criminal law, labor law and administrative law. A police officer added that search warrants would be an example of the service that he could provide. Other police officers could provide French legal services in writing, translate some proceedings for persons under arrest or documents for colleagues or partner agencies, as well as, sometimes, translate documents coming from Quebec.

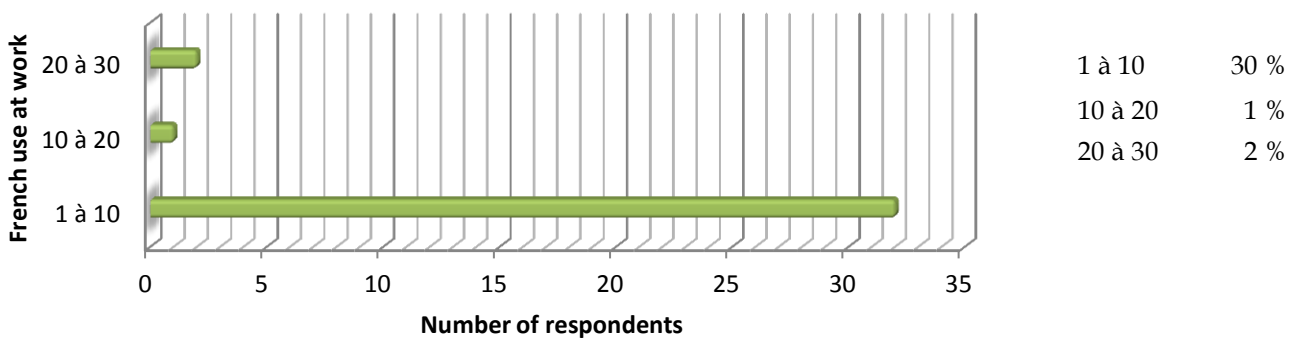
**11- If you are able to provide French services, how many times, on average, do you use French at work?
How many times a day?**



**11- If you are able to provide French services, how many times, on average, do you use French at work?
How many times a week?**



**11- If you are able to provide French services, how many times, on average, do you use French at work?
How many times a month?**



12- Do you have any examples of situations where you must use your French?

One professional answered: "Every day in communication with Acadian and francophone organizations, federal government and the public in general." Another said "During bilingual or French hearings. During national conferences, speaking with other francophone Judges."

Another person added: "I sit as an Adjudicator in the Small Claims Court of Nova Scotia. From time to time, I am able to converse with people whose 1st language is French and have difficulty with English."

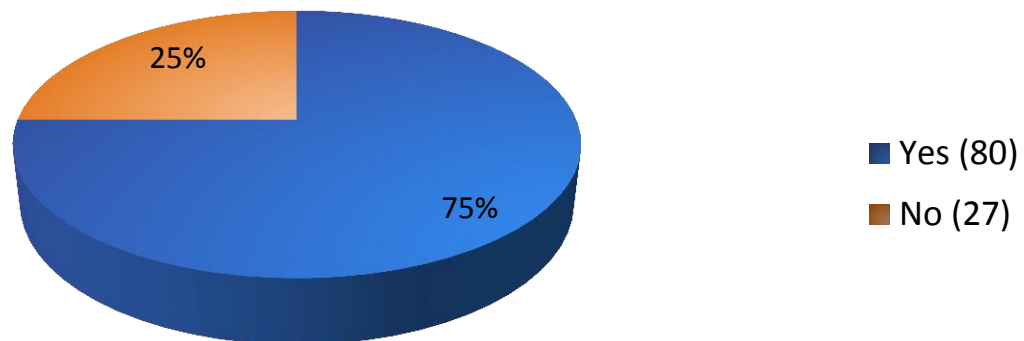
Other respondents have mentioned the revision of an insured's documents from Quebec or speaking with Quebec lawyers.

Some of them use the French for translations, presentencing reports, or to write briefs, read documents and judgments in French. They could also use it to translate denunciations, speak with the accused or even use the French during a trial.

Some respondents use French to speak with their francophone clients. For example, military staff who must buy or sell a home and who only speak French or immigrant clients from Africa in the Family Court.

Some police officers said using French inside the Police station, particularly to evaluate applicants or accepting complaints concerning French speaking citizens or at the moment of communications with police officers based in other towns where they speak in French. An example was given by a police officer who handled a detainment in French, during a regular traffic stop, because the driver was francophone.

13- If you were offered French training, would you be willing to offer French services?



14- If you have answered "No", please explain why?

Most of the respondents who answered “No” to the previous question said that they are not confident enough to conduct a trial in French or they are not comfortable practising law in a second language. Often, the reason for the lack of confidence is due to the complexity of legal terminology. Some of the respondents say that the law is too technical and they will need more than French conversation skills to conduct a trial correctly or give some instructions for the trial.

According to some of the responses, the offered training would be very long in order to become competent. They add that they do not really have the time to follow training in French. One lawyer added that: “The effort that it would take me to achieve a 10 level is disproportionate to the number of francophone clients I have. I would use French once a year in my practice.”

Some lawyers have mentioned the fact that they are too old to learn a second language.

One respondent noted the fact that he would have no financial advantage to follow language training and another said he would have without doubt answered: “maybe” to this question if the option has been given.

Finally, some participants answered “No” because French is their mother tongue or they are bilingual so they do not require any language training.

15- Under which circumstances would you be willing to offer French services?

The bilingual respondents have often answered to this question: “Anytime, depending on the circumstances...”.

Other respondents explained that they offer French services if a person asks for it, or with francophone clients or with clients who don't understand English. A lawyer said that he could offer French services if a client needs services in immigration law or if the client needs general advice.

A lot of respondents have linked this question to language training and added that if they would receive some adapted training, they could offer all their services in French.

Another respondent added: “Any service whereby my level of fluency in French would allow me to competently represent my client” and speak fluently in French, during a trial particularly. Another respondent said: “Only if I can become competent enough to do away with a fear of being misunderstood and to provide a good service to my clients with confidence.”

Others explain that they would be more comfortable providing written services to their clients. A respondent noted that he would offer French-language services in very serious cases with a translator.

16- What is your position?

The answers were varied, and included: Judge, Lawyer, Barrister and Solicitor, Crown Attorney, Court Administrator, Court Reporter, Legal Assistant, clerk, French services coordinator, Police Officer, Enforcement Counsel, Probation Officer, Small Claims Court Adjudicator, Legal Services Technician, Platoon Sergeant, Children Outreach Program Coordinator.

17- What organization do you work for?

- 👉 Judge: 6
- 👉 Public Prosecution Service of Canada: 23
- 👉 Private Law Firm: 48
- 👉 RCMP ou Police: 10
- 👉 Department of Justice: 16
- 👉 Others (Legal Aid, Organizations...): 4

18- In what region ?

- 👉 Halifax Regional Municipality: 56
- 👉 North Region (Chéticamp, Sydney, Port Haweksbury...): 15
- 👉 South Region (Yarmouth, Digby...) 26
- 👉 Nova Scotia: 10



SOME NUMBERS

107 persons who work in the judicial system of Nova Scotia filled in this survey.

66 % of the respondents speak French, 59 % of which have an advanced speaking level. 63 % of the respondents write in French and 46 % have an advanced level.

36 % of the respondents could offer French legal services verbally, 78 % of which have an advanced level and 27 % of the respondents could offer French legal services in writing, 77 % of which have an advanced level.

75 % of the respondents would accept to offer French services if they could receive tailored language training.

6 Judges filled in the survey. 4 judges speak French with an advanced level. 3 judges could offer French legal services verbally with an advanced level. 3 judges write in French with an advanced level and one writes in French with an intermediate level. 3 judges could offer French legal services in writing with an advanced level.

10 Police Officers filled in this survey. 7 Police Officers speak in French with an advanced level. 5 Police Officers could offer French legal services verbally with an advanced level. 7 Police Officers write in French with an intermediate or advanced level. 5 Police Officers could offer French legal services in writing with an advanced level.

12 Crown Attorneys filled in this survey. 9 Crown Attorneys speak in French (Beginner: 2; intermediate: 3; advanced: 4). 4 Crown Attorneys could offer French legal services verbally with an advanced level and one Crown Attorney with an intermediate level. 8 Crown Attorneys write in French (Beginner: 1; intermediate: 4; advanced: 3). 2 Crown Attorneys offer French legal services in writing with an advanced level and 3 Crown Attorneys with an intermediate level.

47 Lawyers filled in this survey. 33 Lawyers speak in French (Beginner: 12; intermediate: 10; advanced: 11). 15 Lawyers could offer French legal services verbally (Beginner: 3; intermediate: 4; advanced: 8). 30 Lawyers write in French (Beginner: 9; intermediate: 12; advanced: 9). 10 Lawyers could offer French legal services in writing (Beginner: 1; intermediate: 3; advanced: 6).

2 Probation Officers filled in this survey. One speaks beginner French and one speaks an advanced level of French. One writes in French with a beginner level and one with an advanced level. One could offer French legal services verbally and in writing with an advanced level.

19 persons who work as a Legal Assistant, Clerk, Court Reporter or another administrative position filled in this survey. 8 persons speak in French with an intermediate level. 4 persons could offer French legal services verbally with an intermediate level. 7 persons write in French with an intermediate level. 2 persons could offer French legal services in writing with an intermediate level.

11 persons who work in the Department of Justice or like Legal Counsel or for an organization filled in this survey. 8 persons speak in French, 6 of which have an advanced level and 2 have an intermediate level. 6 persons could offer French legal services verbally whose 4 with an advanced level and 2 with an intermediate level. 8 persons write in French, 4 of which at an advanced level and 4 with an intermediate level. 4 persons could offer French legal services in writing whose 2 with an advanced level and 2 with an intermediate level.

CONCLUSION

With the number of respondents who participated in our surveys, we can say it has been a successful evaluation of the current situation of French-language services in the judicial system of Nova Scotia.

In the first instance, the survey for the Acadian and francophone community of Nova Scotia permitted us to realize that few people know their legal rights concerning French-legal services that they can or cannot receive. This research also brought to light that if some French legal services were requested by the Acadian and francophone community, the Nova Scotia Department of Justice may have an obligation to include this request in its annual plan pursuant to the *French-language Services Act*. However, we noted an augmentation of legal services offered in French over the last several years in Nova Scotia and we hope this trend will continue in the future.

Secondly, with the survey on the linguistic capabilities of those who work in the judicial system of Nova Scotia, we noted that a lot of them speak French but only a few could offer legal services in French at work. However, 75 % of the respondents would be willing to offer French services if they were to receive French training adapted to their specific needs and to make them comfortable offering their services in French. This feeling of confidence was often mentioned by the respondents as well as the technical terms to know in order to offer a competent service to their clients.

Finally, our presentation of this portrait of the judicial system in French of Nova Scotia is to be completed by way of a tour of the various Acadian and francophone communities. Based on the comments and expectations of the Acadian and francophone community, AJEFNE will work out its future objectives in order to continue to improve the availability of French-language legal services.

In conclusion, we would like to thank all who have taken their time in order to permit us to conduct this research and particularly the Department of Justice Canada for its constant financial support. We would like also to thank Lynette Muise, Léda Chiasson (Zlotnick) and the Language Rights Support Program (<http://www.padl-lrsp.uottawa.ca/index.php>) for their contribution to this research.

APPENDIX

POLICE ACT

Police Act, art. 3: Administration of justice

3 The Minister is the constituted authority for the administration of justice within the Province and nothing contained in this Act shall be construed to change or alter this responsibility. 2004, c. 31, s. 3.

Police Act, art. 34 : Agreement to employ R.C.M.P.

34 (1) The Governor in Council may from time to time enter into an agreement with.

(a) the Government of Canada for the use or employment of the Royal Canadian Mounted Police; or

(b) another government for the use or employment of its police department,
to perform the functions of the Provincial Police.

(2) An agreement entered into pursuant to subsection (1) may contain such terms and conditions, including financial arrangements, as may be agreed upon and the Governor in Council has full power and authority to perform and carry out the agreement.

(3) Subject to the terms of the agreement referred to in subsection (1), while acting as the Provincial Police, the Royal Canadian Mounted Police or other police department shall be under the general control and supervision of the Minister.

(4) Subject to the agreement entered into pursuant to subsection (1), the Royal Canadian Mounted Police or other police department shall perform the functions assigned to the Provincial Police by this Act.

(5) For greater certainty, where the Governor in Council enters into an agreement with the Royal Canadian Mounted Police pursuant to subsection (1),

(a) the Royal Canadian Mounted Police Act (Canada) applies;

(b) the complaints process in that Act applies to members of the Royal Canadian Mounted Police when acting as the Provincial Police. 2004, c. 31, s. 34.

SOLEMNIZATION OF MARRIAGE ACT

Solemnization of Marriage Act, R.S.N.S. 1989, c. 436, s. 4(3)

4 (3) A judge of **any court in the Province** is authorized to solemnize marriage.

Solemnization of marriage by a judge or justice

23 (1) A judge or a justice of the peace designated by the Minister may solemnize a marriage for which a marriage license has been issued.

(2) No particular form of ceremony is required in a marriage that is solemnized by a judge or a justice of the peace designated by the Minister except that in some part of the ceremony, in the presence of the judge or justice and witnesses, each of the parties shall declare.

I do solemnly declare that I do not know of any lawful impediment why I, A.B., may not be joined in matrimony to C.D.

and each of the parties shall say to the other.

I call upon all persons present to witness that I, A.B., do take thee, C.D., to be my lawful wedded (wife or husband)

after which the judge or justice shall say.

By virtue of the authority vested in me by the Solemnization of Marriage Act, I hereby pronounce you, A.B. and C.D., to be husband and wife

provided that, if the judge or justice adds other words to the ceremony, no expression shall be used in the ceremony that means or implies that the marriage is not to the exclusion of all other spouses while both of the parties are alive.

OFFICIAL LANGUAGES ACT

Our two official languages, English and French, are a fundamental characteristic of Canadian identity. This is why throughout its history, our country has passed laws and adopted policies to better protect and promote its official languages.

The importance of our official languages is also recognized in the Canadian Constitution. In fact, the [Canadian Charter of Rights and Freedoms](#), which is part of the Constitution, includes a series of language rights. Canada's [Official Languages Act](#) clarifies the rights and obligations set out in the Charter.

The purpose of the Act is to:

- ensure respect for English and French and ensure equality of status and equal rights and privileges as to their use in federal institutions;
- support the development of English and French linguistic minority communities; and
- advance the equal status and use of English and French.

The *Official Languages Act* does not apply to provincial and municipal governments, or to private businesses. However, certain [provinces and territories](#) have adopted policies and legislation to protect languages.

http://www.ocol-clo.gc.ca/html/language/anglais_droitslinguistique_f.php

General Circumstances

5. (1) For the purposes of paragraph 22(b) of the Act, there is significant demand for communications with and services from an office or facility of a federal institution in both official languages where

(a) the office or facility is located in a CMA that has at least 5,000 persons of the English or French linguistic minority population and is the only office or facility of the institution in the CMA that provides a certain service;

(b) the office or facility is located in a CMA that has at least 5,000 persons of the English or French linguistic minority population, the office or facility is one of two or more offices or facilities of the institution in the CMA that provide the same services and those services are not available in both official languages at a proportion of those offices or facilities that is at least equal to the proportion of that population in the CMA to the total population in the CMA or, if the number representing that proportion of offices is equal to less than one, at at least one of those offices or facilities, the choice of which depends on

(i) the distribution of the linguistic minority population within the CMA, and

(ii) the function of the offices or facilities that provide those services, their clientele and their location within the CMA;

(c) the office or facility is located in a province in which the English or French linguistic minority population is equal to at least 5 per cent of the total population in the province and is located in a CMA that has a population of at least 1,000,000 persons, the office or facility is one of two or more offices or facilities of the institution in the CMA that provide any of the services referred to in subparagraphs (f)(i) to (vi) and those services are not available in both official languages at one office plus at a proportion of those offices or facilities that is at least equal to the proportion of that population in the CMA to the total population in the CMA or, if the number representing that proportion of offices is equal to less than one, at at least two of those offices or facilities, the choice of which depends on

(i) the distribution of the linguistic minority population within the CMA, and

(ii) the function of the offices or facilities that provide those services, their clientele and their location within the CMA;

(d) the office or facility is located in a CMA that has fewer than 5,000 persons of the English or French linguistic minority population and does not provide any of the services referred to in subparagraphs (f)(i) to (vi), and at that office or facility over a year at least 5 per cent of the demand from the public for services is in the official language of that population;

(e) the office or facility is located in a CMA that has fewer than 5,000 persons of the English or French linguistic minority population and the service area of the office or facility has at least 5,000 persons of the linguistic minority population;

(f) the office or facility is located in a CMA that has fewer than 5,000 persons of the English or French linguistic minority population and is the only office or facility of the institution in the CMA that provides

(i) services related to income security programs of the Department of National Health and Welfare,

(ii) services of a post office,

(iii) services of an employment centre of the Department of Employment and Immigration,

(iv) services of an office of the Department of National Revenue (Taxation),

(v) services of an office of the Department of the Secretary of State of Canada, or

(vi) services of an office of the Public Service Commission;

(g) the office or facility is located in a CMA that has fewer than 5,000 persons of the English or French linguistic minority population, the office or facility is one of two or more offices or facilities of the institution in the CMA that provide any of the services referred to in subparagraphs (f)(i) to (vi) and those services are not available in both official languages at a proportion of those offices or facilities that is at least equal to the proportion of that population in the CMA to the total population in the CMA or, if the number representing that proportion of offices is equal to less than one, at at least one of those offices or facilities, the choice of which depends on

(i) the distribution of the linguistic minority population within the CMA, and

(ii) the function of the offices or facilities that provide those services, their clientele and their location within the CMA;

(h) the office or facility is located outside a CMA and within a CSD and

(i) the service area of the office or facility has at least 500 persons of the English or French linguistic minority population and the number of those persons is equal to at least 5 per cent of the total population of that service area,

(ii) the service area of the office or facility has at least 5,000 persons of the English or French linguistic minority population,

(iii) the office or facility serves the CSD and is the only office or facility of the institution in the CSD that provides a certain service, the CSD has at least 500 persons of the English or French linguistic minority population and the number of those persons is equal to at least 5 per cent of the total population in the CSD, or

(iv) the service area of the office or facility includes all or part of two or more provinces in which the languages of the English or French linguistic minority populations are not the same;

(i) the office or facility is located outside a CMA and within a CSD that it serves, the CSD has at least 500 persons of the English or French linguistic minority population, the number of those persons is equal to at least 5 per cent and less than 30 per cent of the total population in the CSD, the office or facility is one of two or more offices or facilities of the institution in the CSD that provide the same services and those services are not available in both official languages at a proportion of those offices or facilities that is at least equal to the proportion of that population in the CSD to the total population in the CSD or, if the number representing that proportion of offices is equal to less than one, at at least one of those offices or facilities, the choice of which depends on

(i) the distribution of the linguistic minority population within the CSD, and

(ii) the function of the offices or facilities that provide those services, their clientele and their location within the CSD;

(j) the office or facility is located outside a CMA and within a CSD that it serves, the CSD has at least 500 persons of the English or French linguistic minority population, the number of those persons is equal to at least 30 per cent of the total population in the CSD and the office or facility is one of two or more offices or facilities of the institution in the CSD that provide the same services;

(k) the office or facility is located outside a CMA and within a CSD that it serves, the CSD has at least 500 persons of the English or French linguistic minority population, the number of those persons is equal to less than 5 per cent of the total population in the CSD, the office or facility does not provide any of the services referred to in subparagraphs (l)(i) to (vii) and at that office or facility over a year at least 5 per cent of the demand from the public for services is in the official language of the linguistic minority population;

(l) the office or facility is located outside a CMA and within a CSD that it serves, the CSD has at least 500 persons of the English or French linguistic minority population, the number of those persons is equal to less than 5 per cent of the total population in the CSD and the office or facility is the only office or facility of the institution in the CSD that provides

(i) services related to income security programs of the Department of National Health and Welfare,

(ii) services of a post office,

(iii) services of an employment centre of the Department of Employment and Immigration,

(iv) services of an office of the Department of National Revenue (Taxation),

(v) services of an office of the Department of the Secretary of State of Canada,

(vi) services of a detachment of the Royal Canadian Mounted Police, or

(vii) services of an office of the Public Service Commission;

(m) the office or facility is located outside a CMA and within a CSD that it serves, the CSD has at least 500 persons of the English or French linguistic minority population, the number of those persons is equal to less than 5 per cent of the total population in the CSD, the office or facility is one of two or more offices or facilities of the institution in the CSD that provide any of the services referred to in subparagraphs (l)(i) to (vii) and those services are not available in both official languages at a proportion of those offices or facilities that is at least equal to the proportion of that population in the CSD to the total population in the CSD or, if the number representing that proportion of offices is equal to less than one, at at least one of those offices or facilities, the choice of which depends on

(i) the distribution of the linguistic minority population within the CSD, and

(ii) the function of the offices or facilities that provide those services, their clientele and their location within the CSD;

(n) the office or facility is located outside a CMA and within a CSD that it serves, the CSD has at least 200 and fewer than 500 persons of the English or French linguistic minority population, the number of those persons is equal to at least 5 per cent of the total population in the CSD, the office or facility does not provide any of the services referred to in subparagraphs (l)(i) to (vii) and at that office or facility over a year at least 5 per cent of the demand from the public for services is in the official language of the linguistic minority population;

(o) the office or facility is located outside a CMA and within a CSD that it serves, the CSD has at least 200 and fewer than 500 persons of the English or French linguistic minority population, the number of those persons is equal to at least 5 per cent of the total population in the CSD, the office or facility provides any of the services referred to in subparagraphs (l)(i) to (vii) and those services are not available in both official languages at at least one office or facility of the institution in the CSD;

(p) the office or facility is located outside a CMA and within a CSD that it serves, the CSD has fewer than 200 persons of the English or French linguistic minority population, the number of those persons is equal to at least 30 per cent of the total population in the CSD and the office or facility provides any of the services referred to in subparagraphs (l)(i) to (vii);

(q) the office or facility is located outside a CMA and within a CSD that it serves, the number of persons of the English or French linguistic minority population in the CSD has not been determined by Statistics Canada under Method I on the basis of the census referred to in section 3, or cannot be disclosed by Statistics Canada for reasons of confidentiality, and at that office or facility over a year at least 5 per cent of the demand from the public for services is in the official language of that population; or

(r) the office or facility is located outside a CMA and within a CSD, the number of persons of the English or French linguistic minority population in the service area of the office or facility cannot be determined by Statistics Canada under Method I on the basis of the census referred to in section 3 because of the nature of the service area or cannot be disclosed by Statistics Canada for reasons of confidentiality, and at that office or facility over a year at least 5 per cent of the demand from the public for services is in the official language of that population.

(2) For the purposes of paragraph 22(*b*) of the Act, there is significant demand for communications with and services from an office or facility of a federal institution in the official language that is not the official language of the English or French linguistic minority population where the office or facility is located in Canada and is not an office or facility at which there is significant demand in both official languages under subsection (1).

(3) For the purposes of paragraph 22(*b*) of the Act, there is significant demand for communications with and services from an office or facility of a federal institution in an official language where the office or facility is located outside Canada and at that office or facility over a year at least 5 per cent of the demand from the public for services is in that language.

(4) Subsections (1) to (3) do not apply in respect of

(*a*) services described in paragraph 6(1)(*a*); or

(*b*) an office or facility described in any of paragraphs 6(1)(*b*) to (*e*), subsection 6(2) or section 7.

Specific Circumstances

6. (1) For the purposes of paragraph 22(*b*) of the Act, there is significant demand for communications with and services from an office or facility of a federal institution in an official language where

(*a*) the services provided by the office or facility are provided to a restricted clientele, the members of which are identifiable, those services are specifically intended for that clientele and at that office or facility over a year at least 5 per cent of the demand from that clientele for those services is in that language;

(*b*) the office or facility provides ship-to-shore communications services, including coast radio station services and vessel traffic services, and at that office or facility over a year at least 5 per cent of the demand from the public for those services is in that language;

(*c*) the office or facility provides immigration services and is located at a place of entry into Canada, and at that office or facility over a year at least 5 per cent of the demand from the public for those services is in that language;

(*d*) the office or facility provides services other than immigration services and is located at a place of entry into Canada, other than an airport or a ferry terminal, in a province in which the English or French linguistic minority population is equal to at least 5 per cent of the total population in the province, and at that office or facility over a year at least 5 per cent of the demand from the public for services is in that language;

(*e*) the office or facility provides search and rescue services from a vessel that has long-range capabilities or from an aircraft, the vessel or aircraft from which the service is provided is distinctively marked by the Department of National Defence or the Canadian Coast Guard as a search and rescue vessel or aircraft or is crewed by the Department of National Defence with personnel specially trained for search and rescue operations, and at that office or facility over a year at least 5 per cent of the demand from the public for those services is in that language; or

(f) the office or facility is a Royal Canadian Mounted Police detachment that provides services in a province to sections of the Trans-Canada Highway where there is a point of entry to another province that is officially bilingual, and over a year at least 5 per cent of the demand from the public for those services is in that language.

(2) For the purposes of paragraph 22(b) of the Act, there is significant demand for communications with and services from an office or facility of a federal institution in both official languages where

(a) the office or facility provides ship-to-shore communications services, including coast radio station services and vessel traffic services, and the service area of the office or facility includes all or a portion of the Bay of Fundy, the St. Lawrence River or the Gulf of St. Lawrence up to the innermost limit of Cabot Strait, but not including Cabot Strait, and up to the southern limit of the Strait of Belle Isle, but not including the Strait of Belle Isle;

(b) the office or facility provides air traffic control services and related advisory services in circumstances in which either official language may be used pursuant to the *Aeronautical Communications Standards and Procedures Order*;

(c) the office or facility provides services other than immigration services and is located at a place of entry into Canada, other than an airport or ferry terminal, in a province in which the English or French linguistic minority population is equal to at least 5 per cent of the total population in the province, and at that place of entry at least 500,000 persons come into Canada in a year; or

(d) the office or facility provides search and rescue services from a vessel that has long-range capabilities or from an aircraft, the vessel or aircraft from which the service is provided is distinctively marked by the Department of National Defence or the Canadian Coast Guard as a search and rescue vessel or aircraft or is crewed by the Department of National Defence with personnel specially trained for search and rescue operations, and the office or facility provides those services

(i) in or over a province in which the English or French linguistic minority population is equal to at least 5 per cent of the total population in the province,

(ii) in or over Hudson Bay, Hudson Strait or James Bay, or

(iii) in or over an area that falls within the boundaries of the Halifax Search and Rescue Region as set out in Annex 3B of the *National Search and Rescue Manual*, published by the Department of National Defence and the Canadian Coast Guard, as amended from time to time.

CRIMINAL CODE, s. 530

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 553 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.

Idem

(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, 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 therefor, 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 (4th 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.

FRENCH-LANGUAGE SERVICES ACT

The *French-language Services Act* amended the Public Service Act on December 9, 2004 to formally establish the Office of Acadian Affairs. The Act also confirmed the provincial government's commitment toward offering services in French. The Act recognizes the valuable contributions and the significant role of the Acadian and francophone community in Nova Scotia.

In 2011, the Act was amended to reflect the administrative changes surrounding the creation of the Department of Communities, Culture and Heritage.

The purpose of the *French-language Services Act* is to:

1. contribute to the preservation and growth of the Acadian and francophone community; and,
2. provide for the delivery of French-language services by designated departments, offices, agencies of Government, and Crown corporations to the Acadian and francophone community.

FRENCH-LANGUAGE SERVICES REGULATIONS

With input from consultations with the Acadian and francophone community and the French-language Services Coordinating Committee, the Office of Acadian Affairs developed the *French-language Services Regulations* which were adopted in 2006. The Regulations clarify the responsibilities of all designated departments, offices and agencies in regard the Act and to the provincial government's corporate commitment to offer services in French.

Designated public institutions, as named in Schedule A of the *French-language Services Regulations* are the government departments, offices, agencies, and Crown corporations required to provide services in French.

NOVA SCOTIA STRATEGIC PLAN FOR FRENCH-LANGUAGE SERVICES

The Nova Scotia Strategic Plan is developed by the French-language Services Coordinating Committee under the leadership of the Office of Acadian Affairs. The plan supports negotiations between the Government of Canada (as represented by the Minister of Canadian Heritage) and the Government of Nova Scotia (as represented by the Minister of Acadian Affairs) for the Canada–Nova Scotia Agreement on French-language Services.

The Nova Scotia Strategic Plan on French-language Services 2009–2013 outlines three specific objectives to guide the Government of Nova Scotia in the development, delivery, and expansion of French-language government services:

1. Strengthen the policy, regulatory, and administrative framework in support of the *French-language Services Act*.
2. Consult, plan, develop, and deliver French-language services in priority areas.
3. Support the Acadian and francophone community in its long-term development and sustainability.

These objectives guide the preparation of the annual French-language Services Plans by each designated public institution and the government's annual Progress Report on French-language Services.