SERVING CANADIANS

CONTRAVENTIONS ACT FUND
SUMMATIVE EVALUATION
Final Report

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Evaluation Division

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Canada

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EXECUTIVE SUMMARY

In 2003, the federal government established the *Contraventions Act* Fund (hereafter "the Fund") to support the implementation of the *Contraventions Act* in a manner consistent with all applicable constitutional and legislative language rights. As part of its performance measurement strategy, the Department of Justice Canada scheduled this summative evaluation of the Fund to be conducted in fiscal year 2007–2008. This document constitutes the summative evaluation's final report.

1. Program description

In 1992, Parliament passed the *Contraventions Act* to recognize the distinction between criminal offences and regulatory offences and to establish a more effective framework to process and prosecute these regulatory offences. The logic of the *Contraventions Act* involves identifying regulatory offences that are to be considered "contraventions" and establishing a simpler alternative scheme to process and prosecute contraventions.

In 2001, the Federal Court was asked to clarify language rights applicable to judicial activities and extra-judicial services delivered as part of the *Contraventions Act*. The Court concluded that while the federal government is authorized to use the prosecution scheme of a province to prosecute federal contraventions, it must comply with all language rights requirements that would be applicable in the context of a purely federal prosecution scheme. The Court added that any level of government that processes federal contraventions is, in fact, acting on behalf of the Government of Canada and must therefore comply with all language rights applicable to federal institutions.

Following the Federal Court decision, the Department of Justice initiated the process of modifying existing *Contraventions Act* agreements and their related statutory frameworks to address language rights requirements identified in the ruling. To support this process, the Department of Justice received funding to establish the Fund, which is the object of this summative evaluation.

2. Methodology

The methodology used to conduct this evaluation has three main components:

- a document and file review
- key informant interviews with representatives from the federal government, the provincial governments of Nova Scotia, British Colombia, Ontario and Manitoba, the Office of the Commissioner of Official Languages
- site visits in Nova Scotia and British Colombia (findings from site visits completed as part of the formative evaluation of the Fund were also considered for the purpose of this summative evaluation).

3. Program rationale

The federal government has exclusive jurisdiction over the prosecution of federal contraventions. As such, it may implement its own prosecution scheme or incorporate provincial prosecution schemes. Regardless of the option selected, the federal government must ensure that all applicable constitutional and quasi-constitutional language rights are respected. According to the 2001 Federal Court ruling, this means that the constitutional rights included in Sections 16 and 20 of the *Canadian Charter of Rights and Freedoms*, as well as the quasi-constitutional rights included in Sections 530 and 530.1 of the *Criminal Code* (for judicial services) and Part IV of the *Official Languages Act* (for extra-judicial services), must be respected in all jurisdictions where the *Contraventions Act* is operational.

The inclusion of provincial or territorial offence schemes is an acceptable strategy to implement the *Contraventions Act*, as long as the following two requirements are met:

- The regulatory framework incorporating the provincial offence scheme includes a direct reference to language rights guaranteed by the *Criminal Code* (Sections 530 and 530.1).
- The agreement signed between the federal government and a provincial government for processing and, in some cases, prosecuting federal contraventions, includes a clear reference to language rights covering judicial activities (*Criminal Code*) and extra-judicial activities (Part IV of the *Official Languages Act*).

The only exception to that rule is New Brunswick, which is the only province in Canada where constitutional language rights applicable to the provincial government mirror those applicable to the federal government.

The Fund represents a critical tool supporting the federal government's current efforts to pursue the implementation of the *Contraventions Act* throughout Canada in a manner that is consistent with all constitutional and quasi-constitutional rights applicable to federal contraventions. Without the Fund, it is doubtful that the federal government would succeed in its ultimate objective, which is to offer Canadians a more effective prosecution scheme for certain regulatory offences designated as contraventions.

The Fund has been assisting provincial governments to address gaps in their capacities to provide the bilingual services required in relation to the prosecution of federal contraventions. The Fund has proven flexible enough to tailor strategies to the situation prevailing in each province.

4. Design and delivery

At the time of the evaluation, the federal government had included activities supported by the Fund in *Contraventions Act* agreements signed with four provinces: Nova Scotia, Ontario, Manitoba, and British Colombia. In these four provinces, the required regulatory framework has also been put in place to guarantee language rights included in the *Criminal Code* for judicial activities. With New Brunswick which already guarantees all language rights applicable to federal contraventions, it means that Canadians in five jurisdictions now have access to an alternative prosecution scheme for federal contraventions that achieves the stated goals of the *Contraventions Act* and that are consistent with all applicable language rights.

In two other jurisdictions, namely Prince Edward Island and Quebec, federal contraventions are processed and prosecuted using the provincial scheme, but the regulatory framework has yet to include the required reference to all language rights applicable to Federal Contraventions. Also, in the case of Prince Edward Island, the existing *Contraventions Act* agreement has yet to be modified to include the required reference to language rights applicable to contraventions.

In the remaining jurisdictions, all federal regulatory offences, including those designated as contraventions, are still prosecuted using the summary conviction scheme of the *Criminal Code*.

The range of activities supported by the Fund is relatively small and typically includes the hiring and training of judicial and extra-judicial court personnel, communication tools, production and

distribution of bilingual tickets, and other administrative activities. In all four provinces where the Fund has been supporting such activities, the provinces have successfully implemented their specific set of activities.

The experience to date demonstrates that jurisdictions prosecuting federal contraventions can expect to face the following challenges:

- The recruiting and retention of bilingual personnel in specialized areas of court administration is difficult.
- The capacity of bilingual personnel to retain their capacity to operate in both official languages requires ongoing effort. Experience to date in all four jurisdictions indicates that the demand for bilingual services is low, something that is to be expected since the new prosecution scheme facilitates the payment of contravention fines for those who do not wish to challenge their ticket. Regardless of demand, the federal government must respect constitutional and quasi-constitutional language rights where applicable. This represents an operational challenge for court administrators that cannot be underestimated.
- Judicial activities in both official languages can effectively be carried out in all four provinces where the Fund has been supporting activities. These activities can be planned in advance, once an individual alleged to have committed a federal contravention opts for a trial in French. The offering of extra-judicial services at the counter or over the phone is more challenging. The demand for these services is unpredictable, and federal contraventions are typically processed in large organizations that process a large volume of provincial offences in English. The four provinces have built their capacity to offer extra-judicial services in both languages, but these will require ongoing monitoring.

One avenue that the Contraventions Act Implementation Management Division may wish to consider is the establishment of a network of provincial officials responsible for the implementation of the *Contraventions Act*. For many provincial officials, the effective implementation of fully bilingual services relating to the federal contraventions is an area where they have little corporate experience to rely on. While each province has its unique prosecution scheme, challenges are common among all provinces that are now involved in the processing of federal contraventions and yet, provincial officials have no means by which they can share their experiences and best practices.

5. Results

Activities supported to date through the Fund are established based on needs assessments and negotiations between the federal government and each province. These activities ensure that participating provinces have the required capacity to deal with the processing and prosecution of federal contraventions under their regime in a manner that is consistent with all applicable language rights. In all four provinces where the Fund has supported activities, these activities have, in fact, strengthened the capacity of targeted court offices to provide bilingual services.

It is to be expected that the range of activities within each province or among all participating provinces will constantly evolve, and, as such, it would be desirable for the Fund to maintain its current flexibility. As each province forges ahead with the processing of federal contraventions, it is possible that unexpected gaps will emerge and that the Fund will be needed to effectively address these gaps.

The four participating provinces are fully prepared to offer trials dealing with federal contraventions in a manner consistent with language rights protected in sections 530 and 530.1 of the *Criminal Code*. Each province has built the capacity to uphold these rights, which can be addressed in advance once a person alleged to have committed a federal contravention opts for a trial in French.

A failure to provide a trial in a manner that is consistent with the language rights contained in the *Criminal Code* would constitute a substantial wrong, which would allow a court to order a new trial in the official language of the person alleged to have committed a federal contravention.

The four participating provinces have also taken measures to actively offer extra-judicial services in both official languages in all court locations covered by Part IV of the *Official Languages Act*. Experience to date indicates that providing these services systematically and proactively is a challenge and will certainly require ongoing monitoring. The various *associations de juristes d'expression française* and the Commissioner of Official Languages will play a central role in that regard.

An important aspect of actively offering services is ensuring that any communication with the public sends a clear message about the availability of bilingual services. The current forms (tickets) used in all four provinces go a long way in communicating this message. But when individuals do show up at a court location to pay their fine or to enquire about their options, the signage within this location must also convey the message that services are in fact available in

both languages. The approaches taken in Ontario and Manitoba in relation to signage stand as good practices for other jurisdictions to follow.

All provincial or municipal governments that are processing federal contraventions are acting on behalf of the federal government. The nature of their obligation in that regard is one of result. Any failure to comply with the *Official Languages Act* can lead to a complaint being filed with the Commissioner of Official Languages and may lead to a court remedy, should a complainant choose to file an application before the Federal Court under the *Official Languages Act*.

6. Cost effectiveness / alternatives

The Fund has been implemented in a cost-effective manner. Only well-identified gaps within each participating province have been the object of funding, and experience to date indicates that the actual costs of implementing activities included in *Contraventions Act* agreements have been smaller than initially anticipated.

This evaluation has not identified any alternative to the Fund that could more efficiently achieve its stated objectives. The Fund has proven to be a flexible tool that has supported federal and provincial governments in their attempt to address identified issues relating to the protection of language rights, so that provincial schemes can be used to process and prosecute federal contraventions.

1. INTRODUCTION

This document constitutes the final report of the summative evaluation of the *Contraventions Act* Fund (hereafter "the Fund"). The Department of Justice established the Fund in 2003, largely in response to a Federal Court ruling that identified issues associated with the implementation of the *Contraventions Act* and its impact on language rights guaranteed to Canadians. As part of its performance measurement strategy, the Department of Justice scheduled the summative evaluation of the Fund, to be conducted in fiscal year 2007–2008.

1.1. Context for the evaluation

The summative evaluation of the Fund is the final component of the Department of Justice's performance measurement strategy relating to the initiative's current funding cycle.

In early 2003, funding was approved for the Fund, covering six fiscal years, from 2002–2003 to 2007–2008.[1] The Department of Justice developed a Results-based Management and Accountability Framework (RMAF) that called for a formative evaluation of the Fund to be completed in 2005–2006, and a summative evaluation of the Fund to be conducted in 2007–2008. The Department of Justice completed the formative evaluation of the Fund in March 2006[2] and is now tabling the final report of the Fund's summative evaluation.

In addition to meeting a performance measurement requirement, the summative evaluation of the Fund is expected to support the efforts of the Department in negotiating *Contraventions Act* agreements with other jurisdictions.

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1 The funding initially approved for Ontario covered five fiscal years (2002–2003 to 2006–2007), and was later extended by one year to cover the fiscal year 2007–2008. The funding approved for the other jurisdictions covers five fiscal years (2003–2004 to 2007–2008) and is part of the federal government's Action Plan for Official Languages.

2 The Final Report of the formative evaluation of the *Contraventions Act* Fund is available on the Department of Justice's Web site: http://www.justice.gc.ca/en/ps/eval/2006.html.

1.2. Scope and objectives of the evaluation

This summative evaluation covers all activities carried out during the six-year funding period allocated to the Fund. More specifically, the evaluation has three key objectives:

- to update the information contained in the formative evaluation report, particularly as it relates to the implementation of activities supported through the Fund in Ontario and Manitoba.
- to provide information on the implementation of activities supported through the Fund in Nova Scotia and British Columbia; activities in these two jurisdictions have largely unfolded during the period following the completion of the Fund's formative evaluation.
- to provide an overall assessment of the progress made in achieving the Fund's expected results.

An evaluation framework developed as part of the Fund's RMAF supports these objectives.

It should be emphasized that the object of this evaluation is the Fund itself, and not the *Contraventions Act*.

1.3. Structure of the report

This evaluation report contains six sections, including this introduction. Section 2 describes the Fund, and Section 3 describes the methodology used to complete this evaluation. Section 4 summarizes the findings from the evaluation, Section 5 presents the conclusions and lessons learned and Section 6 presents the recommendations and management response.

2. DESCRIPTION OF THE *CONTRAVENTIONS ACT* FUND

The federal government established the Fund to support the implementation of the *Contraventions Act* in a manner consistent with all applicable constitutional and legislative language rights. This section of the report describes the overall policy and legislative context relating to the *Contraventions Act* and the Fund, as well as a description of the Fund's program logic, management structure, and resources.

2.1. Policy and legislative context

In describing the policy and legislative context associated with the Fund, this sub-section describes the *Contraventions Act* to which the Fund is intrinsically linked, the set of language rights applicable to federal contraventions, the 2001 ruling of the Federal Court on the *Contraventions Act*, and the establishment of the Fund as a response to this ruling.

2.1.1. The Contraventions Act

In 1992, Parliament passed the *Contraventions Act* to recognize the distinction between criminal offences and regulatory offences, and to establish a more effective framework to process and prosecute these regulatory offences. The *Act* is expected to benefit both Canadians and their justice system by limiting the long-term impact of a conviction of certain regulatory offences and by allowing the court system to focus its resources on instances where individuals alleged to have committed certain regulatory offences wish to plead not guilty and request a trial. As formally stated in Section 4 of the *Act*:

> **"4.** The purposes of this Act are:
>
> a) to provide a procedure for the prosecution of contraventions that reflects the distinction between criminal offences and regulatory offences and that is in addition to the procedures set out in the *Criminal Code* for the prosecution of contraventions and other offences; and

b) to alter or abolish the consequences in law of being convicted of a contravention, in light of that distinction."[3]

The logic of the *Contraventions Act* is relatively straightforward:

- First, the federal government identifies regulatory offences that are to be considered "contraventions."
- Second, the federal government establishes a simpler alternative scheme to prosecute federal offences designated as contraventions. The federal government essentially considered two options: establishing an entirely new federal scheme or using schemes that are already in place in provinces to prosecute and process provincial offences. The federal government opted for the latter option. As a result, a designated federal regulatory offence, such as operating a pleasure craft with an insufficient number of lifejackets, is treated much like a provincial offence, such as driving without wearing a seat belt. In both cases, the person is served a ticket offering a range of options such as paying the fine, pleading guilty with an explanation, or opting for a trial.

The remainder of this sub-section provides additional information on these two key steps, which are illustrated in Figure 1.

[3] Section 4 of the *Contraventions Act*, S.C. 1992, c. 47.

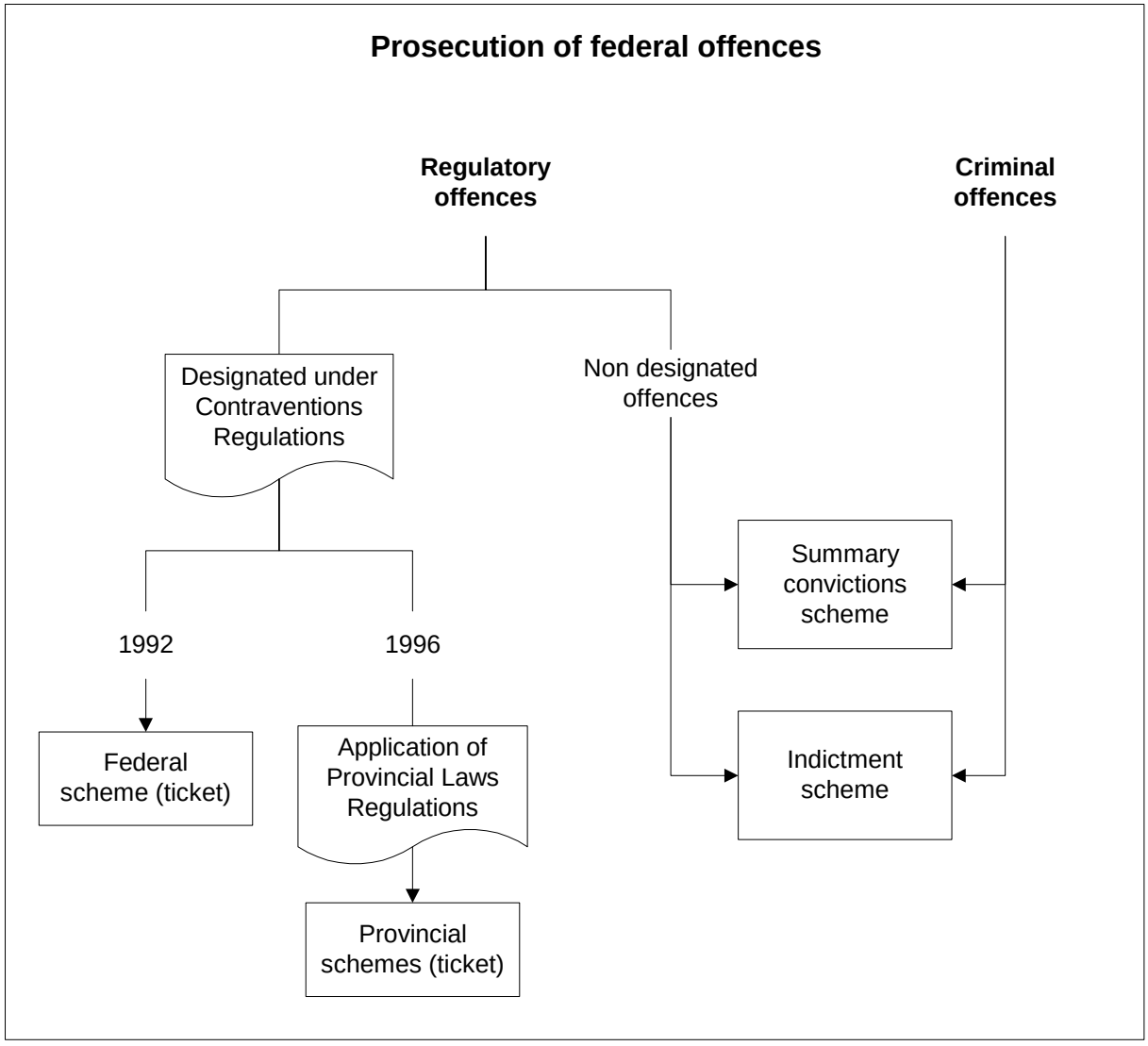

Figure 1

Designation as "contraventions"

The *Contraventions Act* specifically defines a contravention as "an offence that is created by an enactment and is designated as contravention by regulation of the Governor in Council."[4] Using

[4] Section 1 of the *Contraventions Act*, S.C. 1992, c. 47. It should be noted that offences that are prosecuted only by indictment cannot be designated as a contravention (see Sub-section 8(1) of the *Contraventions Act*, S.C. 1992, c. 47).

the *Contraventions Regulations*,[5] the federal government has, to date, designated more than 2,700 regulatory offences as contraventions, involving more than 20 different federal laws and 40 sets of regulations. All federal offences designated as contraventions are regulatory offences under a wide range of federal acts other than the *Criminal Code*. Table 1 provides examples of regulatory offences that the federal government has designated as contraventions.

Table 1: Examples of regulatory offences designated as contraventions

Enabling act	Contraventions
Canada National Parks Act	Damaging an archaeological site or a historical resource
Canada Wildlife Act	Unlawfully hunting or fishing
Migratory Birds Convention Act	Hunting a migratory bird without a permit
Motor Vehicle Transport Act	Requesting a commercial vehicle driver to drive without at least eight consecutive hours of off-duty time.
Tobacco Act	Furnishing a tobacco product to a young person in a public place or in a place to which the public reasonably has access.
Canada Shipping Act	Allowing a person under 12 years of age to operate a pleasure craft with engine power greater than 7.5 kW without prescribed supervision.

Source: Contraventions Regulations (SOR/96-313) and enabling laws and regulations

A practical example can illustrate the process of establishing a contravention. In 2000, Parliament passed the *Canada National Parks Act*, whose main purpose is to establish parameters for the use and maintenance of national parks "so as to leave them unimpaired for the enjoyment of future generations."[6] Paragraph 16(1)(b) of the *Canada National Parks Act* allows the Governor in Council to make regulations respecting "the protection of flora, soil, waters, fossils, natural features, air quality, and cultural, historical and archaeological resources." On that basis, the federal government passed the *National Historic Parks General Regulations*, which stipulates at subsection 4(1) that "no person shall remove, deface, damage or destroy flora, fauna or natural objects in a Park." Referring back to the definition of a contravention, the first condition for creating a federal contravention is met: we have "an offence that is created by an enactment," in this case created by the *National Historic Parks General Regulations*. The second condition for creating a contravention is that the offence be "designated as contravention by regulation of the Governor in Council." Using the *Contraventions Regulations*, the federal government designated the offence described in subsection 4(1) of the *National Historic Parks*

5 *Contraventions Regulation* (SOR/96-313).
6 Sub-section 4(1) of the *Canada National Parks Act*, S.C. 2000, c. 32.

General Regulations (removing flora, fauna or a natural object) as a contravention and established the maximum fine at $300.[7]

Prosecution scheme

The main purpose of the *Contraventions Act* is to create a new option for prosecuting and processing certain regulatory offences that are designated as contraventions. As stated above, the purpose of the *Contraventions Act* is to "provide a procedure for the prosecution of contraventions […] that is in addition to the procedures set out in the *Criminal Code* for the prosecution of contraventions and other offences."[8]

The initial design of the *Contraventions Act*, before its 1996 amendments, provided for the establishment of an entirely new prosecution scheme that would specifically deal with federal contraventions. It is relevant to describe this proposed federal prosecution scheme to better understand the initial intent of Parliament. The *Contraventions Act* establishes an alternative process that could be followed in relation to a federal contravention. Key characteristics of this proposed prosecution scheme include:

- *Creation of a special mode of prosecution*: Enforcement authorities have the option of completing and serving a ticket to individuals who are alleged to have committed a contravention. The person who is alleged to have committed a contravention is given the option to pay the fine (typically by mail), which constitutes a guilty plea; plead guilty with an explanation (to reduce the fine); or ask for a trial.[9]
- *Right to a trial in the official language of the accused*: In the event that someone who is alleged to have committed a contravention wishes to have a trial, the *Contraventions Act* specifically states that measures included in the *Criminal Code* on the language of a trial (sections 530.1 and 531) apply.[10]
- *Sentence limited to a fine*: A person convicted of a contravention prosecuted by ticket is liable to the fine established by the *Contraventions Regulations* (not the fine stated in the original act or regulation) and under no circumstances is the person liable to imprisonment. Using our earlier example relating to national parks, a person who is found guilty of

7 Part 1.002 of Schedule I.01 of the *Contraventions Regulations* (SOR/96-313).
8 Section 4 of the *Contraventions Act*, S.C. 1992, c. 47.
9 Section 21 of the *Contraventions Act* (not in effect).
10 Section 30 of the *Contraventions Act* (not in effect).

removing protected flowers from a national park is liable to a fine of $300, not to a fine of up to $2,000 for proceedings commenced by way of summary conviction.[11]

- *No criminal record*: One of the central objectives of the *Contraventions Act* is to remove the stigma and the impact of having a criminal record for individuals who are found guilty of certain regulatory offences designated as contraventions. The purpose of the *Act* is to reflect the distinction between regulatory offences and criminal offences and "to alter or abolish the consequences in law of being convicted of a contravention, in light of that distinction." It is on this basis that the *Contraventions Act* states that, apart from exceptional circumstances, "a person who has been convicted of a contravention has not been convicted of a criminal offence" and adds that "a contravention does not constitute an offence for the purpose of the *Criminal Records Act*."[12] This is a significant change considering the impact that a criminal record may have on the ability of an individual to practice certain professions, find employment, or even obtain a passport.

In 1996, Parliament modified the *Contraventions Act* to avoid the duplication that would have resulted from the establishment of an entirely new federal scheme to prosecute federal contraventions. Instead, the *Act* gives authority to the federal government to use provincial schemes to prosecute federal contraventions. As stated in section 65.1 of the *Act*:

> "**65.1** (1) The Governor in Council may, for the purposes of this Act, make regulations making applicable, in respect of any contravention or any contravention of a prescribed class of contraventions, alleged to have been committed in or otherwise within the territorial jurisdiction of the courts of a province, laws of the province, as amended from time to time, relating to proceedings in respect of offences that are created by a law of the province, with such modifications as the circumstances require […]."

As one may expect, the prime advantage for the federal government of using provincial schemes is to avoid setting up an entirely new structure for managing tickets, payments, trials, reporting, and all other functions related to a ticket-based prosecution scheme. But in order for the federal government to use a provincial scheme, it must first obtain the support of the concerned provincial government. To facilitate this process, the *Contraventions Act* states that "the Minister may enter into an agreement with the government of a province respecting the administration and

[11] Section 42 of the *Contraventions Act*.
[12] Section 63 of the *Contraventions Act*.

enforcement of this Act generally."[13] Among other things, these agreements determine how administrative costs relating to the processing of federal contraventions will be covered and how revenues from contraventions are to be shared between the two levels of government.

On the basis of an agreement between the two levels of government concerning the use of a provincial scheme to prosecute and process federal contraventions, the federal government, by means of the *Application of Provincial Laws Regulations*, essentially incorporates a provincial prosecution scheme into the *Contraventions Act*. As stated in section 1 of the *Application of Provincial Laws Regulations,* "the laws of a province referred to in the schedule apply, as amended from time to time, to the prosecution of contraventions designated under the Contraventions Regulations, to the extent and with the adaptations indicated in the schedule."

A provincial scheme can only be used to prosecute and process federal contraventions once the following two steps have been completed: an agreement has been signed between the federal and provincial governments and the required regulatory framework has been established to incorporate the provincial prosecution scheme. In the absence of either one of these two steps, federal contraventions are prosecuted by way of summary conviction or indictment.

2.1.2. Relevant language rights

In 2001, the Federal Court was asked to clarify the extent of language rights applicable to federal contraventions.[14] This case related specifically to the province of Ontario, the first to implement the *Contraventions Act*. At the time of this evaluation, this ruling was the only one dealing specifically with this issue and, as such, it serves as the foundation for the analysis contained in this subsection.

The federal government may use provincial prosecution schemes to prosecute federal contraventions, but in doing so, it must ensure that all judicial activities and extra-judicial services relating to federal contraventions are provided in accordance with the language rights of Canadians contained in the Canadian Charter of Rights and Freedoms, the Criminal Code and the Official Languages (see Figure 2). This sub-section further explores the extent of language rights applicable to federal contravention.

[13] Section 65.2 of the Contraventions Act.
[14] *Commissioner of Official Languages and her Majesty*, 2001 FCT 239.

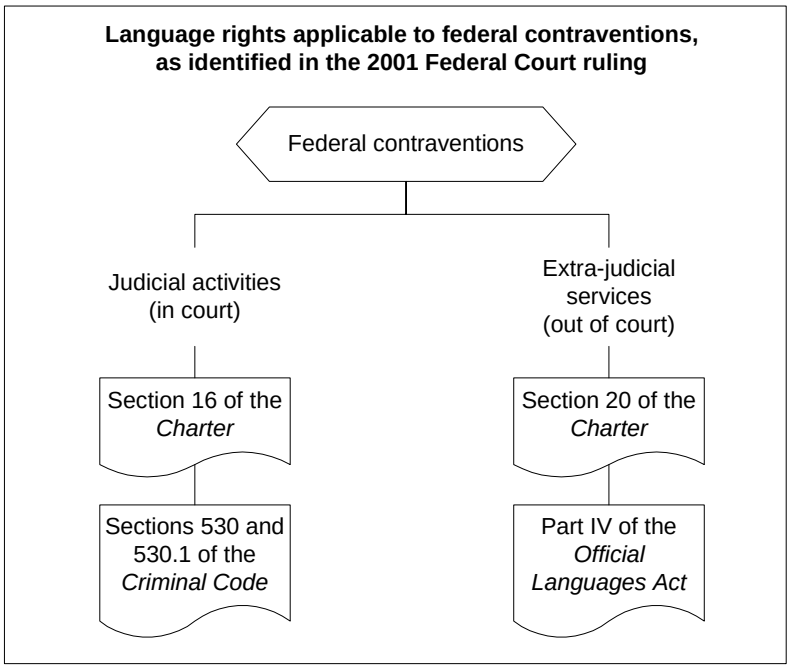

Figure 2

Jurisdictional issues

In Canada, the power to make laws on the use of official languages is not specifically assigned to one or the other level of governments. Instead, it is an ancillary power that must be linked to specific areas of jurisdiction of the federal or provincial governments.[15]

In the specific case of contraventions, the federal government has exclusive jurisdiction with respect to their prosecutions.[16] As a result, the federal government has complete authority to structure the prosecution of contraventions. It may prosecute contraventions directly or it may delegate this role to provincial or municipal governments (as reflected in section 65.2 of the *Contraventions Act*).[17]

In making decisions on the prosecution of contraventions, the federal government must comply with its constitutional and legislative obligations, including those relating to languages. In this sense, the federal government's jurisdiction over the prosecution of contraventions may be

[15] R. *v.* Beaulac [1999] 1 S.C.R. 768, par. 14.
[16] *Commissioner of Official Languages and her Majesty*, 2001 FCT 239, par 127.
[17] *Commissioner of Official Languages and her Majesty*, 2001 FCT 239, par 135.

exclusive, but it is not absolute. Two sets of language rights apply to federal contraventions: those relating to judicial aspects of contraventions (activities occurring in court, during judicial processes) and those relating to extra-judicial aspects of contraventions (activities occurring out of court, including services at the registry counter).

Judicial activities

Since the federal government has exclusive jurisdiction on the prosecution of federal contraventions, it must ensure that any structure put in place to prosecute and process contraventions complies with language rights that apply to the federal government. For criminal offences, Parliament opted for the adoption of an extensive language rights scheme found in sections 530 and 530.1 of the *Criminal Code*. In a landmark decision (R. *v.* Beaulac), the Supreme Court of Canada stated that the purpose of these sections of the *Criminal Code* is "to provide equal access to the courts to accused persons speaking one of the official languages of Canada in order to assist official language minorities in preserving their cultural identity."[18] Courts called upon to deal with criminal matters are therefore required to be institutionally bilingual in order to provide for the equal use of the two official languages of Canada. The Supreme Court of Canada also emphasized that:

> "(…) mere administrative inconvenience is not a relevant factor. The availability of court stenographers and court reporters, the workload of bilingual prosecutors or judges, the additional financial costs of rescheduling are not to be considered because the existence of language rights requires that the government comply with the provisions of the Act by maintaining a proper institutional infrastructure and providing services in both official languages on an equal basis. As mentioned earlier, in the context of institutional bilingualism, an application for service in the language of the official minority language group must not be treated as though there was one primary official language and a duty to accommodate with regard to the use of the other official language. The governing principle is that of the equality of both official languages."[19]

The original prosecution scheme included in the *Contraventions Act* specifically incorporates sections 530, 530.1 and 531 of the *Criminal Code*, allowing a person alleged to have committed a contravention access to all language rights attributed to individuals alleged to have committed a

[18] *R.* v. *Beaulac* [1999] 1 S.C.R. 768, par. 34.
[19] *R.* v. *Beaulac* [1999] 1 S.C.R. 768. par 39.

criminal offence.[20] These sections have essentially become the threshold against which the application of a provincial scheme for prosecuting federal contraventions is to be assessed. In practical terms, this means that the federal government may use a provincial scheme for the prosecution of federal contraventions, but this scheme must, at the trial level, provide the same guarantees relating to official languages as those established in the *Criminal Code*.[21]

Extra-judicial services

Section 20 of the *Canadian Charter of Rights and Freedoms* confers to Canadians the right to be served by federal institutions in both official languages once certain conditions have been met.

> "**20.** (1) Any member of the public in Canada has the right to communicate with, and to receive available services from, any head or central office of an institution of the Parliament or government of Canada in English or French, and has the same right with respect to any other office of any such institution where
>
> a) there is a significant demand for communications with and services from that office in such language; or
>
> b) due to the nature of the office, it is reasonable that communications with and services from that office be available in both English and French."

The federal government has implemented these rights through the *Official Languages Act*, particularly through Part IV dealing with "communication with and services to the public." Section 25 of the *Official Languages Act* specifies that any third party providing services on behalf of a federal institution must respect all obligations that would otherwise be applicable to that institution.

These parameters directly apply to federal contraventions. The federal government must either directly provide services in both official languages as prescribed in Part IV of the *Official Languages Act* (in the event that it would process federal contraventions itself), or ensure that any provincial institution processing federal contraventions on its behalf provide such bilingual services. In its ruling, the Federal Court confirmed that any provincial or municipal governments

[20] Section 30 of the *Contraventions Act* (not in force).
[21] *Commissioner of Official Languages and her Majesty*, 2001 FCT 239, par 151 to 159.

processing federal contraventions are, indeed, acting on behalf of the federal government and are, therefore, covered by Section 25 of the *Official Languages Act*.[22]

The Court order

After reviewing the structure in place in Ontario in 1997 for the implementation of the *Contraventions Act*, the Federal Court concluded that "in the measures that they have taken in enacting and applying the CA [*Contraventions Act*], the respondents [the federal government] violated the statutory language rights in the OLA [Official Languages Act], and the provisions of the Charter, with respect to the status and use of the two official languages in the province of Ontario."[23]

The Court concluded that the federal government "must ensure that the quasi-constitutional language rights of all Canadian citizens are guaranteed by any measure taken to arrange for the implementation of the CA [*Contraventions Act*]."[24] More specifically, the Federal Court ordered the following:

- that the federal government "take the necessary measures, whether legislative, regulatory or otherwise, to ensure that the quasi-constitutional language rights provided by sections 530 and 530.1 of the *Criminal Code* and Part IV of the OLA [*Official Languages Act*], for persons who are prosecuted for contraventions of federal statutes or regulations, are respected in any present or future regulations or agreements with other parties that relate to responsibility for administering the prosecution of federal contraventions."[25]
- that any agreement signed between the federal government and the Ontario government include "a clear reference to the quasi-constitutional language rights provided in sections 530 and 530.1 of the *Criminal Code* and part IV of the OLA [Official Languages Act]."[26]

Following the Federal Court ruling, the Department of Justice initiated the process of modifying its *Contraventions Act* agreements to include new provisions addressing language rights requirements identified in the decision. To support this process, the Department of Justice received funding to establish the *Contraventions Act* Fund, which is the object of this evaluation.

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22 *Commissioner of Official Languages and her Majesty*, 2001 FCT 239, par 138.
23 *Commissioner of Official Languages and her Majesty*, 2001 FCT 239, par 191.
24 *Commissioner of Official Languages and her Majesty*, 2001 FCT 239, par 196.
25 *Commissioner of Official Languages and her Majesty*, 2001 FCT 239, par 192.
26 *Commissioner of Official Languages and her Majesty*, 2001 FCT 239, par 193.

2.2. Program logic

The Fund supports a number of activities that are expected to contribute to the achievement of specific policy goals. This section describes the Fund's program logic. It is based on the Fund's logic model included as Figure 3 on page 18.

2.2.1. Program goals

The central goal of the Fund is to achieve an implementation of the *Contraventions Act* that respects all applicable language rights requirements. More specifically, the Fund pursues three objectives:

- "to implement, in cooperation with the provinces, territories, municipalities or non-governmental organizations, measures to permit the use of both official languages in proceedings instituted [pursuant to] the *Contraventions Act*"
- "in the case of judicial services, to ensure access to justice in accordance with the language rights set out in section 530 and 530.1 of the *Criminal Code*"
- "in the case of extra-judicial services, to recognize the obligations respecting language set out under Part IV of the *Official Languages Act.*"[27]

2.2.2. Program activities and outputs

Activities undertaken as part of the Fund occur at both the federal and provincial levels.

At the federal level, the Department of Justice is expected to negotiate *Contraventions Act* agreements that address the language rights requirements established by the *Criminal Code* and the *Official Languages Act*. The federal government must also modify, as applicable to each covered jurisdiction, the *Application of Provincial Laws Regulations* (SOR/96-312) to recognize language rights included in the *Criminal Code*.

At the provincial level, the Fund supports a range of activities deemed necessary to increase the language capacity of existing provincial offence schemes, so as to respect language rights requirements applicable to federal contraventions. The list of activities funded in each

[27] Department of Justice Canada. (2003). *Department of Justice Funding Program for the Implementation of the Contraventions Act: Terms and Conditions*.

jurisdiction is expected to vary based on identified gaps and needs, but will typically include some of the following components:

- the hiring and allocation of bilingual judicial (such as justices of the peace or provincial court judges) and extra-judicial (such as court clerks) personnel
- the delivery of language training for judicial and extra-judicial personnel
- the installation and/or modification of equipment and systems in the courts or registries to provide access to bilingual judicial and extra-judicial personnel
- the supply of legal documentation (such as tickets) and related information (such as brochures) in both official languages
- the installation of bilingual signage in the court and registry.

2.2.3. Expected impacts

The implementation of activities, particularly at the provincial level, is expected to contribute to the achievement of a series of immediate, intermediate, and long-term outcomes:

- Funded activities are expected to increase the capacity of funding recipients (court locations) to deliver services in both official languages. This is expected to occur for both judicial and extra-judicial services.
- The Fund is expected to satisfy the language rights requirements established by the *Criminal Code* and the *Official Languages Act*. This, in turn, would assure the Department of Justice that the court order issued by the Federal Court has been adequately addressed.
- The *Contraventions Act* Fund is expected to support the federal government in its efforts to implement the *Contraventions Act* throughout Canada.

Finally, the *Contraventions Act* Fund is expected to support the Department's strategic objective of making the justice system relevant, accessible, and responsive to the needs of Canadians and to provide effective stewardship of that system.

2.3. Management structure

The Contraventions Act Implementation Management Division, within the Department of Justice Canada, manages the *Contraventions Act* Fund. The Division leads the negotiations of *Contraventions Act* agreements with the provinces, territories, and municipal governments, as applicable. The Division also leads the process of establishing the proper regulatory framework to incorporate provincial and territorial prosecution schemes into the *Contraventions Act*.

The provincial and territorial governments (typically the Attorney General) manage the ongoing implementation of *Contraventions Act* Fund activities, in close collaboration with managers in court locations. The responsibilities of provincial and territorial governments include, among other things:

- the printing and distribution of offence notices in both official languages
- the proper recording of federal contraventions into the provincial or territorial databases
- the provision of trials, guilty plea with representation, and other related activities in the official language chosen by the contraveners, in accordance with the *Criminal Code* and the *Official Languages Act*
- the monitoring and following up on any complaint concerning non-compliance to official languages requirements.

Provincial and territorial governments are also responsible for submitting performance reports to the Department of Justice Canada. These reports include, among other things:

- the number of offence notices issued for contraventions for the individual statutes and regulations covered by the *Contraventions Regulations*
- the amount of fines imposed
- the total amount of fines outstanding
- the number of trials held, including the number of French trials held.

2.4. Program resources

To date, the federal government has set aside $41 million in funding for the *Contraventions Act* Fund, which covers six fiscal years. Table 2 shows the distribution of these funds.

Table 2: Financial resources ($ million) *

Jurisdictions	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	Total
Vote 5:							
- Ontario	2.2	2.8	2.8	2.8	2.8	2.8	16.2
- Other jurisdictions	0.0	0.7	2.6	4.7	5.6	6.6	20.2
Vote 1	0.2	0.9	0.9	0.9	0.9	0.8	4.6
Total	2.4	4.4	6.3	8.4	9.3	10.2	41

** These amounts represent the financial resources allocated to the Fund, and not necessarily the resources actually spent.*
Source: Submissions and administrative data.

Logic Model for the *Contraventions Act* Fund

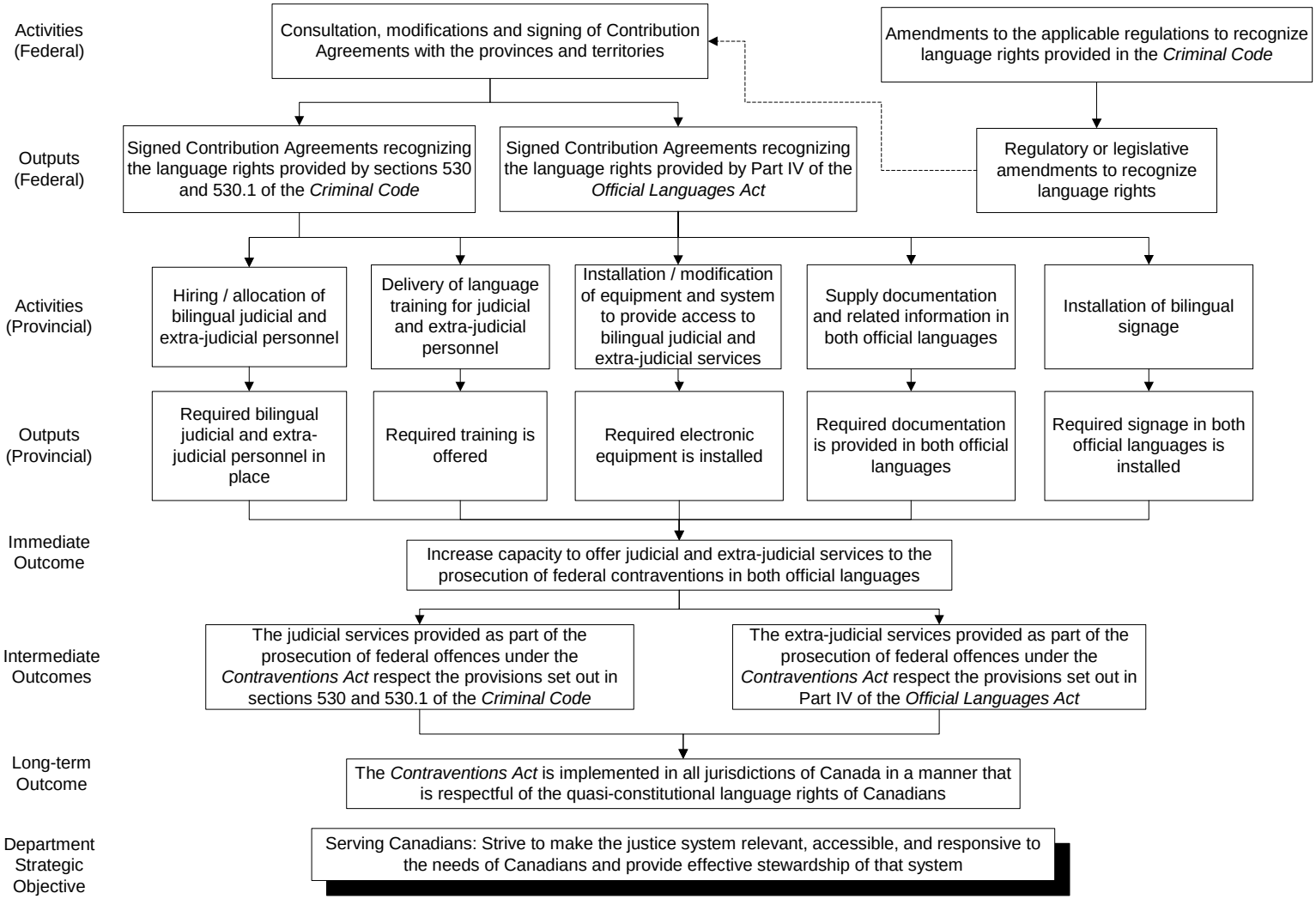

Figure 3

3. METHODOLOGY

The methodology used to conduct this summative evaluation has three main components: a document and file review, key informant interviews, and site visits.

3.1. Document review

To get a detailed understanding of the *Contraventions Act* Fund and of the provincial prosecution schemes in Ontario and Manitoba, a range of documents were reviewed:

- *Contraventions Act* agreements and other documents related to the implementation of the *Contraventions Act* Fund
- official program documentation
- reports submitted by provincial governments on the implementation of activities funded through *Contraventions Act* agreements
- court decisions and expert opinions relating to the *Contraventions Act*, Part XVII of the *Criminal Code* (section 530), and Part IV of the *Official Languages Act*
- annual reports from the Office of the Commissioner of Official Languages
- RMAF for the *Contraventions Act* Fund
- legislative and regulatory frameworks applicable for the prosecution of provincial offences.

3.2. Key informant interviews

Key informant interviews were conducted with representatives from the federal government, the provincial governments of Ontario, Manitoba, British Colombia, and Nova Scotia, the Office of the Commissioner of Official Languages and the *Association de juristes d'expression française de la Nouvelle-Écosse*. Table 3 presents the distribution of key informants consulted.

Table 3: Distribution of key informants consulted	
Key informant group	**Number of individuals consulted**
Department of Justice Canada	2
Commissioner of Official Languages	1
Attorney General of Ontario	1
Manitoba Justice	1
French-language Services Secretariat (Manitoba)	1
Association des juristes d'expression française	1
Total	7

3.3. Site visits

Site visits were conducted in Nova Scotia and British Colombia. The site visit in Nova Scotia was conducted on June 15, 2007 and the site visit in British Colombia was conducted on July 18 and 19, 2007. Two court locations were visited per province.

- In Nova Scotia, site visits were conducted in court offices located in Halifax and Darmouth. These sites meet the criteria established in the *Official Languages Act* regulations for the provision of bilingual services and the *Contraventions Act* Fund is supporting activities.
- In British Colombia, site visits were conducted in court locations in Victoria and New Westminster. These are the only two sites that are designated as bilingual in accordance with the *Official Languages Act* regulations, and the *Contraventions Act* Fund is supporting activities in these two locations.
- Findings from the site visits conducted as part of the formative evaluation of the Fund, in Ontario and Manitoba, were also considered as part of this summative evaluation.

4. KEY FINDINGS

This section presents key findings from the document review, interviews, and site visits. The information is complementary to that included in the program description.

4.1. The rationale for the *Contraventions Act* Fund

The rationale for implementing the Fund rests primarily on the need to address the legal risk resulting from the 2001 Federal Court decision, as well as on the need to design a response that can be effectively aligned with the logic of the *Contraventions Act*.

4.1.1. Legal risks resulting from the court ruling

The 2001 ruling of the Federal Court on the *Contraventions Act* jeopardized the entire federal government's effort to streamline the prosecution of certain regulatory offences. As described in sub-section 2.1.2, the Court gave one year to the federal government to modify its *Contraventions Act* agreement with the province of Ontario to ensure that all applicable language rights be respected; otherwise the agreement would become void.[28] In the absence of a valid agreement, contraventions would no longer be prosecuted using the provincial scheme, and all stakeholders would be sent back to the drawing board.

While invalidating the initial approach selected by the Department of Justice to implement the *Contraventions Act*, the Federal Court ruling also paved the way for the federal government to retain the *Contravention Act* project. The Court confirmed that the overall strategy selected by the federal government to prosecute contraventions, particularly as it relates to the use of provincial offence schemes, was valid as long as "necessary measures, whether legislative, regulatory, or otherwise" were taken to guarantee that all language rights applicable to federal

[28] *Commissioner of Official Languages and her Majesty*, 2001 FCT 239, par 193.

contraventions were respected. [29] This essentially clarified the conditions upon which the federal government could pursue its effort to roll-out the new ticket scheme throughout Canada.

The federal government's response to the Court ruling needed to be sufficiently flexible to address different gaps associated with different prosecution schemes. In practical terms, the "necessary measures" taken in Ontario to ensure that language rights applicable to contraventions are respected are bound to be different than those measures taken in Manitoba or British Colombia for the same purpose. Each province has its own prosecution scheme and its own capacity to offer services in both official languages. The nature of measures taken in each jurisdiction to protect language rights had to reflect the nature of the gaps that existed in each jurisdiction.

To implement measures tailored to the specific context of a province, the federal government modified existing contravention agreements and their associated regulatory framework. At the time of the court ruling, the federal government had already signed *Contraventions Act* agreements with several jurisdictions and was in the process of negotiating agreements with others. The strategy therefore consisted of re-opening these agreements to include new measures dealing specifically with the set of orders issued by the Federal Court and to modify their regulatory framework to include a direct reference to sections 530 and 530.1 of the *Criminal Code*. To date, the Fund has been providing the necessary financial resources to allow the federal government to support provinces that need to address certain gaps in their capacity to provide judicial and extra-judicial services in both official languages.

4.1.2. Consequential impact of the court ruling

In the absence of an adequate response to the Federal Court ruling, all federal contraventions would be sent back to the summary conviction process, which would have significant consequences. A brief comparison between the ticket-based prosecution scheme and the summary conviction process illustrates the advantages of pursuing the full implementation of the *Contraventions Act* (see Figure 4 on page 24 of this report):

- The first key difference between the two prosecution schemes is the action required as a result of the decision by the enforcement authority to lay a charge. As noted in sub-section 2.1.1 of this report, a person served with a ticket typically has three options: pay the fine, plead guilty with an explanation (to reduce the fine or obtain more time to pay), or ask for a

[29] *Commissioner of Official Languages and her Majesty*, 2001 FCT 239, par 192.

trial. Even if the person served with an information (*dénonciation*) under the summary conviction process does not wish to challenge the charge, he or she must nonetheless proceed with a first appearance in court, and this step has significant impacts: it mobilizes the time of court personnel, duty counsel (where applicable), prosecutors, and judges. It also requires that the accused person appear in the judicial district where the offence is alleged to have been committed, which may involve lengthy and costly travelling. That first step is completely avoided in the case of contraventions. And considering the nature of federal contraventions (regulatory offences subject to a relatively small fine), the vast majority of individuals alleged to have committed one simply pay the fine by mail or in person.

- The second key difference between the two schemes is the option given to a person who is alleged to have committed a contravention to plead guilty with an explanation. This option avoids a full trial if the person agrees that his or her behaviour was inconsistent with federal laws, but wishes to present mitigating factors. Also, this option is typically done in front of the Justice of the Peace and, in some cases, can be submitted in a written form.
- The third difference is that, in the event of a trial, provinces may set "offences courts," whose mandate is to deal with both provincial offences and federal contraventions (such is the case in Ontario). These offences courts typically follow procedures that are simpler than those applicable in a criminal court, which benefits all parties involved.

An effective response to the Court ruling would also allow the federal government to achieve the second purpose of the *Contraventions Act*, which is to essentially "abolish the consequences in law of being convicted of a contravention."[30] As noted in section 2.1.1 of this report, a person found guilty of a contravention will not have a criminal record. Such is not the case for a person found guilty of a summary conviction offence, who automatically ends up with a criminal record. This consequence in law may create significant barriers to employment in addition to limiting the ability of the person to obtain a passport and travel outside of Canada. Simply put, Parliament adopted the *Contravention Act* to limit the penalty associated with certain regulatory offences to the prescribed fine.

While not stated as a direct purpose of the *Contraventions Act*, the establishment of a simpler, more effective prosecution system serves as a strong incentive for enforcement authority to more readily enforce federal laws. During our interviews with provincial representatives, it was noted that enforcement officers typically welcomed the implementation of the *Contraventions Act* in their province as a new tool to effectively deal with the designated regulatory offences.

[30] Sub-section 4(b) of the *Contraventions Act*.

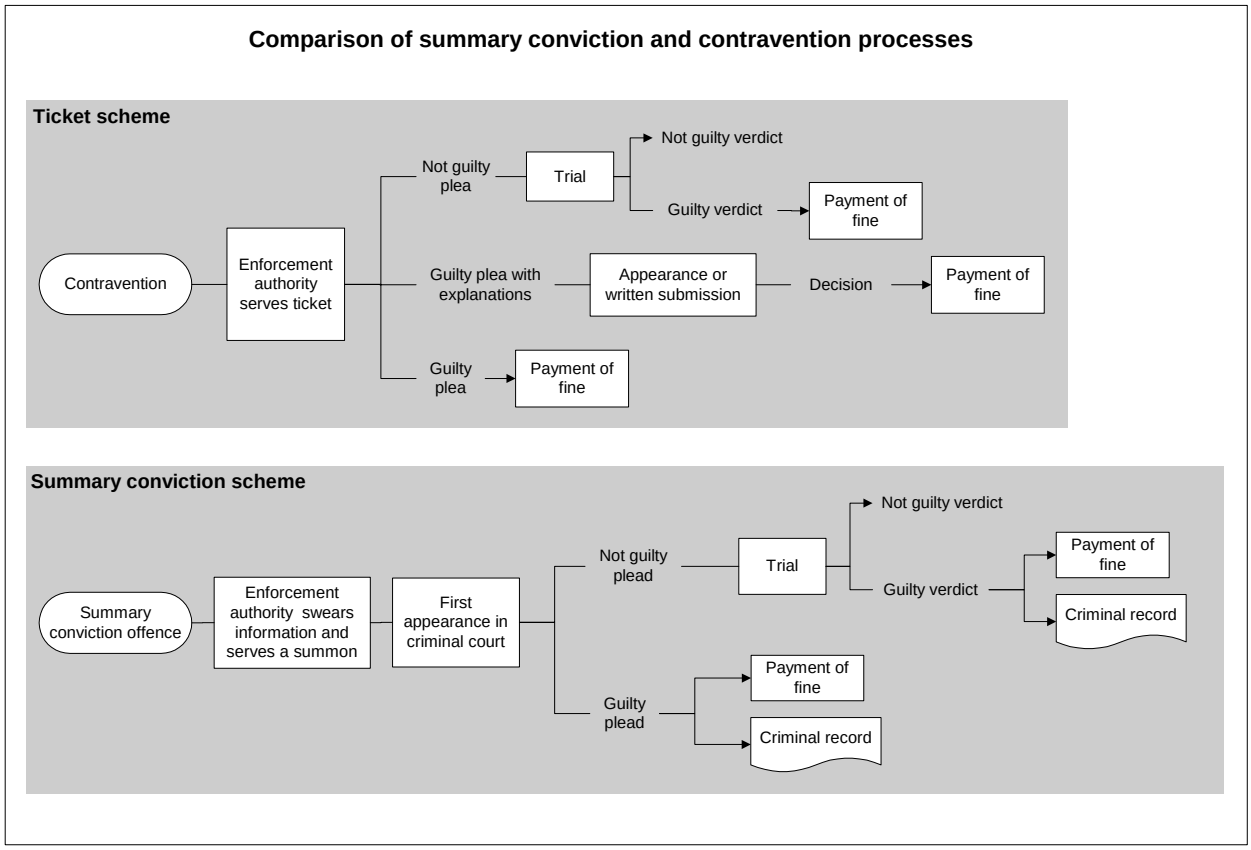

Figure 4

4.2. Overview of implementation across Canada

The implementation of the Fund is directly linked to the implementation of the *Contraventions Act* throughout Canada. For the purposes of this evaluation, it is best to structure the overview of program implementation on two distinct periods: pre-Federal Court ruling and post-Federal Court ruling.

4.2.1. Pre-Federal Court ruling

Following the 1996 amendment to the *Contraventions Act*, the federal government initiated the process of incorporating provincial offence schemes and signing agreements to make the *Contraventions Act* operational throughout Canada. At the time of the Federal Court ruling in 2001, the federal government had completed these two steps in six jurisdictions (see Table 4).

Table 4: Contraventions Act operational as of 2001	
Jurisdictions	**Date**
Prince Edward Island	1997
Nova Scotia	1999
New Brunswick	1997
Québec	2000
Ontario	1996
Manitoba	1997
Source: administrative documents	

It is important to note that, at that point, none of the regulations incorporating the provincial scheme for the purpose of the *Contraventions Act*, and none of the agreements signed between the federal government and provincial governments, with the exception of the one signed with the Quebec government, referred to the language rights incorporated in the *Criminal Code* or Part IV of the *Official Languages Act*. Nonetheless, all federal offences designated as contraventions have been prosecuted using the provincial offence scheme since the years mentioned in Table 4.

4.2.2. Post-Federal Court ruling

The immediate impact of the 2001 Federal Court ruling was to create, de facto, three categories of jurisdictions for the purpose of the *Contraventions Act*'s implementation:

- Category 1: Jurisdictions fully compatible with the Federal Court ruling.
- Category 2: Jurisdictions where the *Contraventions Act* is operational but that have yet to be fully compatible with the Federal Court ruling.
- Category 3: Jurisdictions where the *Contraventions Act* is not yet operational.

This sub-section describes where each jurisdiction in Canada stands in relation to these categories and how the Fund has been used to date. Table 5 (page 27 of this report) summarizes the information presented.

Category 1: Compatible jurisdictions

In its 2001 ruling, the Federal Court essentially required that two actions be taken to guarantee language rights relating to federal contraventions:

- Any incorporation of a provincial scheme for the purpose of prosecuting federal contraventions must include a direct reference to the language rights guaranteed by the *Criminal Code* (Sections 530 and 530.1).
- Any agreement signed between the federal government and a provincial government must include a clear reference to the language rights covering judicial activities (*Criminal Code*) and extra-judicial activities (Part IV of the *Official Languages Act*).

To comply with the ruling, avoid new court challenges in other jurisdictions where the *Contraventions Act* was already operational (see Table 4), and pursue the implementation of the *Contraventions Act* in other jurisdictions, the Department of Justice was facing two critical tasks:

- modify the existing regulations made under the *Application of Provincial Laws Regulations* to make applicable language rights included in section 530 and 530.1 of the *Criminal Code* and amend agreements made in support of the *Contravention Act*'s implementation in accordance with the court ruling.
- pursue, in a manner consistent with the Federal Court ruling, negotiations with jurisdictions that have yet to make the *Contraventions Act* operational.

At the time of this evaluation, this process was completed in five jurisdictions: Nova Scotia, New Brunswick, Ontario, Manitoba, and British Colombia. Different strategies were required to achieve this result.

- In the cases of Nova Scotia, Ontario and Manitoba, the federal government modified the existing regulations and agreements to comply with the Federal Court ruling.
- In the case of British Colombia, the federal government established the proper regulatory framework and signed the *Contraventions Act* agreement in the period following the Federal Court ruling and completed the process in a manner consistent with the Federal Court ruling.
- In the case of New Brunswick, no actions were required on the part of the federal government. Indeed, New Brunswick stands in a category of its own, being the only province in Canada where constitutional language rights applicable to the provincial government mirror those applicable to the federal government.[31] By incorporating the provincial offence scheme for the purpose of prosecuting federal contraventions, the federal government was

[31] See Sub-sections 16(2), 19(1) and 20(2) of the *Constitution Act*, 1982.

incorporating a system that guarantees all constitutional language rights applicable to federal contraventions.

Category 2: Jurisdictions that have yet to be compatible

Two jurisdictions are currently prosecuting and processing federal contraventions using their respective provincial offence schemes while their regulatory frameworks and agreements have yet to be made fully compatible with the Federal Court ruling:

- Prince Edward Island: While the federal government intends to modify the regulatory framework and the related agreement, no specific action were underway at the time of the evaluation.
- Quebec: The federal government has initiated the process of amending the regulatory framework applicable to the province of Quebec. On December 2, 2006, the federal government published the proposed amendment in the Gazette of Canada to fully incorporate sections 530 and 530.1 of the *Criminal Code*. Also, negotiations are ongoing between the two levels of government to amend the agreement relating to federal contraventions. Finally, the ticket served for federal contraventions in Quebec has already been modified to reflect these changes.

Category 3: Contraventions Act not operational yet

In the remaining jurisdictions (Newfoundland and Labrador, Saskatchewan, Alberta, and the three territories), individuals alleged to have committed a federal contraventions are prosecuted using the summary conviction process. The federal government has initiated discussions at various levels with these jurisdictions, but no formal agreement had been implemented at the time of this evaluation.

Table 5: Overview of the implementation of the *Contraventions Act* across Canada

Components		NL	PE	NS	NB	QC	ON	MB	SK	AB	BC	YK	NT	NU
Regulations	Prosecution scheme incorporated (reference to language rights)			X			X	X			X			
	Prosecution scheme incorporated (no reference to language rights)	X	X		X	X								
Agreements	Agreements signed (reference to language rights)			X			X	X			X			

	Agreements signed (no reference to language rights)		X		X	X								
Activities supported by the Fund				X			X	X			X			
Contraventions Act operational			X	X	X	X	X	X			X			
Summary conviction scheme still the only way to prosecute federal contraventions		X							X	X		X	X	X
Source: Administrative information														

4.3. Range of activities implemented through the Fund

At the time of the evaluation, the Fund had been supporting activities in four jurisdictions. The range of activities in each jurisdiction is based on a needs assessment and typically covers both judicial and extra-judicial services. Provinces that have benefited from the Fund have largely succeeded in implementing their planned activities and, as a result, have strengthened their capacity to offer services in both official languages. This sub-section further explores these findings.

4.3.1. Activities supported by the Fund

The Fund has been supporting activities in Nova Scotia, Ontario, Manitoba, and British Colombia. As illustrated in Table 6 (on page 29), the new prosecution scheme for federal contraventions came into effect in different fiscal years among these four provinces: Ontario was the first one to implement the new scheme (in 2002–2003), and British Colombia was the latest one to do so (in 2006–2007). Funding has typically been provided in the one or two years leading up the implementation of the new prosecution scheme to allow for preparatory activities to be completed.

Each of the four beneficiary provinces negotiated with the federal government on the range of activities needed to address their specific gaps. It is important to note that not all provinces implementing the new prosecution scheme for federal contraventions will necessarily require support from the Fund. In the case of New Brunswick, for instance, the *Contraventions Act* is operational and yet, the two levels of governments have not identified any need for support from the Fund so far. As the experience of New Brunswick in processing federal contraventions evolves, it is possible that some support from the Fund will be required in the future.

Interviews conducted as part of this evaluation with provincial representatives pointed to a high level of satisfaction with the negotiation process. All four provincial governments concluded that their respective agreements adequately address their specific needs. The Terms and Conditions associated with the Fund are fairly broad, allowing the federal government to tailor *Contraventions Act* agreements to the specific structure of each provincial offence scheme and to the capacity level of each provincial government to provide bilingual services. As long as activities are specifically funded to meet the language requirements of the *Contraventions Act*, they can be the object of negotiations between the two levels of government.

Activities funded to date cover both judicial and extra-judicial activities:

- For judicial services, the Fund has allowed for the hiring and training of judicial staff, including provincial court judges, justices of the peace, prosecutors, and court workers (court monitors, interpreters, etc.) in Nova Scotia, Ontario, and British Colombia. Manitoba has not required such funding since the province had already instituted a fully bilingual circuit provincial court that can hear trials relating to federal contraventions.
- For extra-judicial services, the Fund has been supporting the hiring and training of personnel in all four provinces. In accordance with Part IV of the *Official Languages Act* governing extra-judicial services, only those court locations meeting the criteria established by the *Official Languages Act* and its associated regulations must offer extra-judicial services in both official languages. The prime criterion to that effect is that there be a "significant demand" for the service, a concept further defined through regulations.[32] Among the four provinces, there were between 2 and 7 court locations that were designated under Part IV of the *Official Languages Act* but were not in a position to actively offer bilingual services (see Table 6). These jurisdictions have used resources from the Fund to hire and train counter staff, to establish procedures structuring bilingual services, and to produce and post bilingual signage.

Table 6: Information on activities supported by the Fund

	NS	ON	MB	BC
First year of implementation	2004–2005	2002–2003	2003–2004	2006–2007
Number of court locations covered by funding	5	7	2	2
Total amount allocated:				
- 2002–2003	$ 456,450	$ 2,200,000	$ 0	$ 0
- 2003–2004	$ 346,500	$ 2,800,000	$ 400,000	$ 0

[32] See *Official Languages (Communications with and Services to the Public) Regulations* (SOR/92-48).

Table 6: Information on activities supported by the Fund				
	NS	**ON**	**MB**	**BC**
- 2004–2005	$ 346,500	$ 2,800,000	$ 300,000	$ 79,028
- 2005–2006	$ 346,500	$ 2,800,000	$ 300,000	$ 92,170
- 2006–2007	$ 346,500	$ 2,800,000	$ 300,000	$ 575,800
- 2007–2008	$ 346,500	$ 2,800,000	$ 300,000	$ 586,400
Nature of activities funded:				
- Hiring / training of judicial staff	**X**	**X**		**X**
- Hiring / training of admin. staff	**X**	**X**	**X**	**X**
- Signage	**X**	**X**		**X**
- Printing of ticket	**X**	**X**	**X**	**X**
- Communication tools	**X**	**X**	**X**	**X**
- Other administrative costs	**X**	**X**	**X**	**X**
Source: Contraventions Act agreements and annual reports.				

In addition to the above-mentioned activities, the Fund has contributed to administrative expenditures related to the implementation of the Fund. In particular, the Fund has supported, in all four provinces, the design and printing of bilingual offence notice forms (tickets and related documents) that meet all requirements applicable to federal contraventions.[33] In Nova Scotia, Ontario, and Manitoba, both levels of government are now using the new bilingual ticket for their respective offences. In British Colombia, the province continues to use unilingual forms for provincial offences but is using the new bilingual form and related documents for federal contraventions. Other administrative expenditures include updating and translating websites, establishing 1-800 lines, and producing information brochures.

Two activities supported by the Fund are unique to Manitoba:

- the installation of video links in court locations in the province that were lacking such equipments. These links allow individuals alleged to have committed a contravention to appear, at a distance, before a bilingual justice of the peace to plead guilty with an explanation.
- the establishment of the position of bilingual "justice generalist," who is located in the Bilingual Service Centre in St. Pierre-Jolys. This justice generalist can be reached by phone via a toll-free number or can be met with in person to answer any questions or provide information to individuals alleged to have committed a contravention.

[33] Ontario and Manitoba already had bilingual forms applicable to provincial offences, but modifications were required to cover all language requirements applicable to federal contraventions.

4.3.2. Implementation process

The four provinces targeted by the Fund have succeeded in implementing the set of activities included in their respective agreements. While some activities have taken longer than expected to complete, such as completing all required translations or filling all positions, the strategies initially designed in each jurisdiction have been implemented and are now operational.

In the process of implementing their respective activities, the four provinces have nonetheless faced a number of challenges that are largely common to all four jurisdictions. These challenges relate to their capacity to recruit bilingual personnel and their ability to actively offer services in situations where the demand for such services is both limited and unpredictable.

Recruiting bilingual personnel

The recruitment of bilingual personnel in specialized areas of court administration has proven difficult in all four provinces. Interviews conducted as part of this evaluation indicate that in Ontario the pool of bilingual individuals may be greater than in other regions, but the demand for bilingual individuals is also greater. In this context, the retention of bilingual personnel is proving to be difficult. In the other three jurisdictions, the pool of bilingual candidates is particularly limited, and finding individuals who may combine both the technical knowledge and the linguistic capacity to offer bilingual services continues to be a challenge.

Maintaining bilingual capacity

In all four jurisdictions, the demand for some of the bilingual services is limited. As described in this report, the *Contraventions Act* scheme systematically allows individuals alleged to have committed a contravention to plead guilty by simply paying the fine, typically by mail. As a result, the vast majority of people who are served a ticket for a federal contravention simply pay them. For instance, in Ontario in 2004–2005, enforcement authorities served 11,909 tickets for federal contraventions, and during the same year 1,566 trials were held for federal contraventions, including 12 trials in French. In Manitoba in 2003–2004, enforcement authorities served 407 tickets for federal contraventions; 28 trials were held, and none of them were French trials. In British Colombia in 2006–2007, enforcement authorities served approximately 1200 tickets for federal contraventions, three-quarters of which related to parking violations on National Defence sites, and no trial in French was requested. The fact that few or no trials are being held in French does not mean that no bilingual services were requested. Individuals may

have called to get information, may have paid their ticket in person, at the counter, or may have opted for a guilty plea with explanations.

Technically speaking, the fundamental purpose of the Fund is to enhance the capacity of provincial governments to prosecute and process federal contraventions in a manner that is fully consistent with the constitutional and quasi-constitutional language rights of Canadians. In that sense, the actual demand for bilingual services is largely secondary. In practical terms, however, the very limited demand for some of the bilingual services raises a significant challenge for provinces in their attempt to maintain a bilingual capacity. Interviews conducted with court managers indicated that maintaining bilingual capacity when practically no demand for French services are made is an ongoing challenge. To address this challenge, managers send bilingual staff to language training, but over the long term, the challenge will likely remain.

Providing extra-judicial services in both languages

In all four jurisdictions, challenges relating to the provision of bilingual services are typically associated with extra-judicial services. The demand for such services, whether in the form of calling for information, paying a ticket at the counter, or appearing before a justice of the peace to plead guilty with an explanation, is largely unpredictable and therefore allows for little planning. Since federal contraventions constitute only a fraction of all offences managed by provincial governments, they are processed in large organizations that must deal with large volumes of provincial offences every day. For instance, while just over 10,000 tickets may be issued in Ontario for federal contraventions in any given year, approximately 1.5 million tickets may be issued for provincial offences in that same year. In this context, activities supported through the Fund have increased the capacity of certain court locations to offer bilingual services, but it remains a challenge for these court locations to always be in a position to offer bilingual services in an environment where most of their services are offered in English only.

In contrast, judicial services (in-court services offered during a trial) can be planned in advance, following the decision of a person who is alleged to have committed a contravention to have a trial in French. Interviews with provincial government representatives conducted as part of this evaluation confirmed that in all four provinces, bilingual teams including provincial court judges, prosecutors, in-court personnel are available to hold bilingual trials. Provinces have had to build their capacity to hold trials in the official language of the defendants as part of the implementation of sections 530 and 530.1 of the *Criminal Code* since their adoption in 1988, and this experience has come a long way to support the implementation of in-court language requirements associated to the *Contraventions Act*.

Active offering of bilingual services

Like any other federal institution, court locations where federal contraventions are processed and prosecuted and that meet the criteria established in Part IV of the *Official Languages Act* must actively offer services in both official languages. As described in the *Official Languages Act*, this means that these court locations:

> "shall ensure that appropriate measures are taken, including the provision of signs, notices and other information on services and the initiation of communication with the public, to make it known to members of the public that those services are available in either official language at the choice of any member of the public."[34]

Treasury Board has further defined the concept of "active offer" through its *Policy on the Use of Official Languages for Communications with and Services to the Public*.[35] Among other things, the policy indicates that the designated institution must ensure that

- "it has the necessary capacity to communicate with and serve members of the public in both official languages at all offices or facilities designated bilingual"
- "communications with and services to the public are provided in both official languages at all offices or facilities designated bilingual"
- "it informs the public of contact information for offices and facilities that are designed bilingual."[36]

The policy specifies that any strategy to actively offer bilingual services should include measures to:

- display the official languages symbol → 

- greet the public in both official languages
- ensure that the office's recorded messages are entirely in both official languages
- display forms and brochures in both official languages.

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[34] Section 28 of the *Official Languages Act*, 1985, c. 31.

[35] Treasury Board of Canada Secretariat. (2005). *Policy on the Use of Official Languages for Communications with and Services to the Public*. Ottawa.

[36] See the section on Expected Results in the *Policy on the Use of Official Languages for Communications with and Services to the Public*.

The four jurisdictions where activities supported by the Fund have been implemented largely meet these criteria. The main communication tool that all individuals alleged to have committed a contravention will receive is the ticket, and, in all four cases, the form used is entirely bilingual. In all four jurisdictions, websites including details about federal contraventions are available in both official languages. Additional forms and brochures have also been developed and are available in both official languages.

One area where strategies have differed among the four jurisdictions is signage. In Nova Scotia and British Colombia, court locations designated under Part IV of the *Official Languages Act* for the purpose of processing federal contraventions display the official languages symbol or its equivalent at counters where bilingual services are available. Other signs in these court locations are displayed in English only. In Ontario, the provincial government has used the Fund to make all signs (both interior and exterior) bilingual in the court locations targeted by its agreement. In Manitoba, all court locations already had bilingual signs (inside and outside) before the *Contraventions Act* agreement was signed.

The governments of Nova Scotia and British Colombia are meeting the strict minimal requirements of Treasury Board's policy on bilingual signs. However, it is clear that the approach taken by Ontario and Manitoba better reflects the spirit of the *Official Languages Act* and requirements established by the Supreme Court of Canada in *Beaulac*. As the Court stated in that case, "language rights are not negative rights, or passive rights: they can only be enjoyed if the means are provided."[37]

Ultimately, court locations designated under Part IV of the *Official Languages Act* must communicate a clear message on the availability of bilingual services to Canadians who are alleged to have committed a contravention and who come into contact with them. Appropriate signage plays an important role in that regard.

4.3.3. Results to date

Overall, the Fund has achieved its fundamental purpose: it has provided the federal government with a critical tool to successfully negotiate the implementation of the *Contraventions Act* in a manner that is consistent with the constitutional and quasi-constitutional language rights of Canadians. At the time of the evaluation, Canadians in five jurisdictions were benefiting from a more effective prosecution scheme for federal contraventions, while being entitled to all

[37] *R.* v. *Beaulac* [1999] 1 S.C.R. 768. par 20.

language rights applicable to a federal institution under the Constitution, the *Official Languages Act* and the *Criminal Code*. This sub-section further elaborates on these results.

The implementation of the Contraventions Act

The fundamental purpose of the Fund is to allow the federal government to pursue the implementation of a simpler and a more effective prosecution scheme for certain regulatory offences designated as contraventions. Without the *Contraventions Act,* the Fund looses all purpose, and without the Fund, the implementation of the *Contraventions Act,* in conformity with the spirit of the 2001 Federal Court ruling, becomes impossible. The court ruling confirmed that the federal government's initial strategy for the implementation of the *Contraventions Act* was leading to an erosion of constitutionally protected language rights. To retain its contraventions project and avoid having to establish a purely federal ticketing scheme, the federal government needed to convince provinces to commit to all language rights that federal institutions normally have to commit to. To do so, provinces needed to address some of the gaps in their capacity to deliver bilingual services. The Fund has provided the support needed to address these gaps. It is on that basis that the federal government has been in a position to incorporate Section 530 and 530.1 of the *Criminal Code* into provincial schemes for the purpose of processing and prosecuting federal contraventions, and provincial governments have signed agreements where they have unambiguously committed themselves to uphold all language rights applicable to federal contraventions.

Apart from New Brunswick, which stands in a category of its own, the Fund has been supporting specific activities in the four other provinces that have agreed to process and prosecute federal contraventions in a manner consistent with the constitutional and quasi-constitutional language rights of Canadians (Nova Scotia, Ontario, Manitoba, and British Colombia).

Obligation of results

Like any other federal institutions, the five provincial governments that have committed themselves to process federal contraventions in a manner consistent with applicable language rights are now accountable under their respective *Contraventions Act* agreement for the successful delivery of these services. In 2005, the Federal Court was asked to clarify the nature of the obligations included in the *Official Languages Act.* Simply put, the Court had to decide whether the obligations described in the *Official Languages Act* were an obligation of means or obligation of results:

> "In the case of an obligation of means, the respondent will be liable only if it has not exercised due diligence and care in respect of its obligation. The obligation of result, on the contrary, suffices to impose a presumption of fault on the respondent. Accordingly, in order to prove it is not liable, the respondent must establish that the non-conformance or harm results from a *force majeure*. Absence of fault is not sufficient to exonerate it."[38]

The Court concluded that the obligation is one of result.[39] This interpretation is consistent with the interpretation offered by the Supreme Court of Canada on the nature of the obligations associated with Sections 530 and 530.1 of the *Criminal Code*, where the Court concluded that these rights constitute "a substantive right and not a procedural one that can be interfered with."[40]

As demonstrated by the 2001 Federal Court ruling, in the event that any designated court location fails to respect language rights applicable to federal contraventions, the person alleged to have committed a contravention will have access to all available remedies.

- In the case of judicial services, a failure to comply with language provisions included in the *Criminal Code* constitutes a "substantial wrong," and a new trial in the official language of the person alleged to have committed a contravention may be ordered.
- In the case of extra-judicial services, a failure to comply with provisions included in Part IV of the *Official Languages Act* can lead to a complaint being filed with the Commissioner of Official Languages and may lead to a court remedy, should a complainant choose to file an application before the Federal Court under the Official Languages Act. To this end, there is little doubt that the various *associations de juristes d'expression française* and the Commissioner of Official Languages will play a critical role on the ongoing monitoring of *Contraventions Act* agreements throughout Canada.

Efficient approach

The range of activities supported through the Fund is relatively limited (see Table 6 on page 29). Interviews conducted in all four jurisdictions indicate that the actual costs of implementing activities included in their respective agreements have been smaller than initially anticipated. According to provincial representatives consulted, the relatively low volume of federal

[38] Thibodeau *v.* Air Canada, 2005 FC 1156, par. 35.
[39] Thibodeau *v.* Air Canada, 2005 FC 1156, par. 48.
[40] *R.* v. *Beaulac* [1999] 1 S.C.R. 768. par 28.

contraventions processed and the small demand for trials have reduced the expenditures initially anticipated.

4.4. Alternatives to the Fund

This evaluation has not identified any alternative to the Fund that could more efficiently achieve its stated objectives. The Fund has proven to be a flexible tool that has supported federal and provincial governments in their attempt to address identified gaps in the provision of bilingual services, so that provincial schemes can be used to process federal contraventions. If the federal government were to implement the original procedures found in the *Contraventions Act*, the Fund would no longer be needed. However, this alternative approach would be more onerous on the court system and for individuals alleged to have committed a contravention.

The only other option would be to send contraventions back into the summary conviction scheme, something that would represent a fatal setback in the achievement of the objectives pursued through the *Contraventions Act*.

5. CONCLUSIONS AND LESSONS LEARNED

This final section of the report presents conclusions and lessons learned, based on the findings presented in Section 4.0. The information is structured along the evaluation issues and questions identified for this evaluation.

5.1. Program rationale

Three evaluation questions relate specifically to the rationale for the Fund.

1. To what extent must the federal government provide bilingual services in the context of the Contraventions Act?

The federal government has exclusive jurisdiction over the prosecution of federal contraventions. As such, it may implement its own prosecution scheme or incorporate provincial prosecution schemes. Regardless of the option selected, the federal government must ensure that all applicable constitutional and quasi-constitutional language rights are respected. According to the 2001 Federal Court ruling, this means that the constitutional rights included in Sections 16 and 20 of the *Canadian Charter or Rights and Freedoms*, as well as the quasi-constitutional rights included in Sections 530 and 530.1 of the *Criminal Code* (for judicial services) and Part IV of the *Official Languages Act* (for extra-judicial services), must be respected in all jurisdictions where the *Contraventions Act* is operational.

2. To what extent is the inclusion of provincial/territorial offence schemes in the *Contraventions Act* sufficient to meet the federal government's language obligations?

The inclusion of provincial or territorial offence schemes is an acceptable strategy to implement the *Contraventions Act*, as long as the following two requirements are met:

- The regulatory framework incorporating the provincial offence scheme includes a direct reference to language rights guaranteed by the *Criminal Code* (Sections 530 and 530.1).

- The agreement signed between the federal government and a provincial government for processing and, in some cases, prosecuting federal contraventions, includes a clear reference to language rights covering judicial activities (*Criminal Code*) and extra-judicial activities (Part IV of the *Official Languages Act*).

The only exception to that rule is New Brunswick, which is the only province in Canada where constitutional language rights applicable to the provincial government mirror those applicable to the federal government.

3. Is the Fund still needed?

The Fund is still needed. It represents a critical tool supporting the federal government's current efforts to pursue the implementation of the *Contraventions Act* throughout Canada in a manner that is consistent with all constitutional and quasi-constitutional rights applicable to federal contraventions. Without the Fund, it is doubtful that the federal government would succeed in its ultimate objective, which is to offer Canadians a more effective prosecution scheme for certain regulatory offences designated as contraventions.

The Fund has been assisting provincial governments to address gaps in their capacities to provide the bilingual services required in relation to the prosecution of federal contraventions. The Fund has proven flexible enough to tailor strategies to the situation prevailing in each province.

5.2. Design and delivery

The formative evaluation of the Fund completed in 2006 addressed a number of evaluation questions relating to the design and delivery of the Fund. This summative evaluation addressed two such questions.

4. Have *Contraventions Act* Agreements been signed in every province?

At the time of the evaluation, the federal government had included activities supported by the Fund in *Contraventions Act* agreements signed with four provinces: Nova Scotia, Ontario, Manitoba, and British Colombia. In these four provinces, the required regulatory framework has also been put in place to guarantee language rights included in the *Criminal Code* for judicial activities. With New Brunswick which already guarantees all language rights applicable to federal contraventions, it means that Canadians in five jurisdictions now have access to an

alternative prosecution scheme for federal contraventions that achieves the stated goals of the *Contraventions Act* and that are consistent with all applicable language rights.

In two other jurisdictions, namely Prince Edward Island and Quebec, federal contraventions are prosecuted using the provincial scheme, but the regulatory framework has yet to include the required reference to all language rights applicable to Federal Contraventions. Also, in the case of Prince Edward Island, the existing *Contraventions Act* agreement has yet to be modified to include the required reference to language rights applicable to contraventions.

In the remaining jurisdictions, all federal regulatory offences, including those designated as contraventions, are still prosecuted using the summary conviction scheme of the *Criminal Code*.

5. Are the activities of the Fund implemented as expected?

The range of activities supported by the Fund is relatively small and typically includes the hiring and training of judicial and extra-judicial court personnel, communication tools, production and distribution of bilingual tickets, and other administrative activities. In all four provinces where the Fund has been supporting such activities, the provinces have successfully implemented their specific set of activities.

The experience to date demonstrates that jurisdictions prosecuting federal contraventions can expect to face the following challenges:

- The recruiting and retention of bilingual personnel in specialized areas of court administration is difficult.
- The capacity of bilingual personnel to retain their capacity to operate in both official languages requires ongoing effort. Experience to date in all four jurisdictions indicates that the demand for bilingual services is low, something that is to be expected since the new prosecution scheme facilitates the payment of contravention fines for those who do not wish to challenge their ticket. Regardless of demand, the federal government must respect constitutional and quasi-constitutional language rights where applicable. This represents an operational challenge for court administrators that cannot be underestimated.
- Judicial activities in both official languages can effectively be carried out in all four provinces where the Fund has been supporting activities. These activities can be planned in advance, once an individual alleged to have committed a federal contravention opts for a trial in French. The offering of extra-judicial services at the counter or over the phone is more

challenging. The demand for these services is unpredictable, and federal contraventions are typically processed in large organizations that process a large volume of provincial offences in English. The four provinces have built their capacity to offer extra-judicial services in both languages, but these will require ongoing monitoring.

One avenue that the Contraventions Act Implementation Management Division may wish to consider is the establishment of a network of provincial officials responsible for the implementation of the *Contraventions Act*. For many provincial officials, the effective implementation of fully bilingual services relating to the federal contraventions is an area where they have little corporate experience to rely on. While each province has its unique prosecution scheme, challenges are common among all provinces that are now involved in the processing of federal contraventions and yet, provincial officials have no means by which they can share their experiences and best practices.

5.3. Results

Four evaluation questions explore the results achieved to date with the Fund.

6. What is the range of activities supported by the Fund to date? Are these activities required? Are gaps remaining to fulfill the federal government's obligations?

Activities supported to date through the Fund are established based on needs assessments and negotiations between the federal government and each province. These activities ensure that participating provinces have the required capacity to deal with the processing and prosecution of federal contraventions under their regime in a manner that is consistent with all applicable language rights. In all four provinces where the Fund has supported activities, these activities have, in fact, strengthened the capacity of targeted court offices to provide bilingual services.

It is to be expected that the range of activities within each province or among all participating provinces will constantly evolve, and, as such, it would be desirable for the Fund to maintain its current flexibility. As each province forges ahead with the processing of federal contraventions, it is possible that unexpected gaps will emerge and that the Fund will be needed to effectively address these gaps.

7. To what extent has the capacity of the provinces and territories to deliver bilingual services increased?

The Fund has been supporting specific activities relating to needs identified by participating provinces. In all cases, the range of activities supported is relatively small and, as a result, the Fund has moderately increased their capacity to deliver bilingual services. As mentioned above, it is possible that unexpected gaps will be identified in the future and that new activities will require support from the Fund. The experience to date indicates that this incremental strategy constitutes an effective approach, as long as the Fund remains flexible to address these various needs as they emerge.

8. Do judicial services provided through the use of provincial offence schemes respect sections 530 and 530.1 of the *Criminal Code*? Are these services actively offered?

The four participating provinces are fully prepared to offer trials dealing with federal contraventions in a manner consistent with language rights protected in sections 530 and 530.1 of the *Criminal Code*. Each province has built the capacity to uphold these rights, which can be addressed in advance once a person alleged to have committed a federal contravention opts for a trial in French.

A failure to provide a trial in a manner that is consistent with the language rights contained in the *Criminal Code* would constitute a substantial wrong, which would allow a court to order a new trial in the official language of the person alleged to have committed a federal contravention.

9. Do extra-judicial services provided in the context of the *Contraventions Act* respect the provisions established in Part IV of the *Official Languages Act*? Are these services actively offered?

The four participating provinces have taken measures to actively offer extra-judicial services in both official languages in all court locations covered by Part IV of the *Official Languages Act*. Experience to date indicates that providing these services systematically and proactively is a challenge and will certainly require ongoing monitoring. The various *associations de juristes d'expression française* and the Commissioner of Official Languages will play a central role in that regard.

An important aspect of actively offering services is ensuring that any communication with the public sends a clear message about the availability of bilingual services. The current forms (tickets) used in all four provinces go a long way in communicating this message. But when individuals do show up at a court location to pay their fine or to enquire about their options, the signage within this location must also convey the message that services are in fact available in

both languages. The approaches taken in Ontario and Manitoba in relation to signage stand as good practices for other jurisdictions to follow.

All provincial or municipal governments that are processing federal contraventions are acting on behalf of the federal government. The nature of their obligation in that regard is one of result. Any failure to comply with the *Official Languages Act* can be addressed by an investigation of the Commissioner of Official Languages and may lead to a court remedy, as prescribed in the *Official Languages Act*.

5.4. Cost effectiveness / alternatives

The final two evaluation questions relate to the cost-effectiveness of the Fund.

10. Has the Fund been implemented in a cost-effective manner?

The Fund has been implemented in a cost-effective manner. Only well-identified gaps within each participating province have been the object of funding, and experience to date indicates that the actual costs of implementing activities included in *Contraventions Act* agreements have been smaller than initially anticipated.

11. Are there alternative ways to achieve the objectives of the Fund?

This evaluation has not identified any alternative to the Fund that could more efficiently achieve its stated objectives. The Fund has proven to be a flexible tool that has supported federal and provincial governments in their attempt to address identified issues relating to the protection of language rights, so that provincial schemes can be used to process and prosecute federal contraventions.

6. RECOMMENDATIONS AND MANAGEMENT RESPONSE

Issue 1

One area where communications strategies have differed among the four jurisdictions is signage. In Nova Scotia and British Colombia, court locations designated under Part IV of the *Official Languages Act* for the purpose of processing federal contraventions display the official languages symbol or its equivalent at counters where bilingual services are available. Other signs in these court locations are displayed in English only. In Ontario, the provincial government has used the Fund to make all signs (both interior and exterior) bilingual in the court locations targeted by its agreement. In Manitoba, all court locations already had bilingual signs (inside and outside) before the *Contraventions Act* agreement was signed. The approaches taken in Ontario and Manitoba in relation to signage stand as good practices for other jurisdictions to follow.

Recommendation 1: The Department of Justice works with jurisdictions where the *Contraventions Act* is operational to improve signage in court locations.

Management Response

Management agrees with this recommendation. The Department has already started working towards that goal. Since consultations were held in regard of this summative evaluation, the Department has helped officials in Nova Scotia develop their policies in regard of bilingual signage in the Justice Centers that have been designated under our agreement with that province.

Issue 2

For many provincial officials, the effective implementation of fully bilingual services relating to the federal contraventions is an area where they have little corporate experience to rely on. While each province has its unique prosecution scheme, challenges are common among all provinces that are now involved in the processing of federal contraventions and yet, provincial officials have no means by which they can share their experiences and best practices.

Recommendation 2: The Department of Justice considers establishing a network of provincial officials responsible for implementation of the *Contraventions Act.*

Management Response

Management agrees with this recommendation. The departmental representative at the FPT Working Group on Access to Justice in Both Official Languages was approached to explore the possibility of adding a subgroup which would serve as a forum for provincial court officers.