

Follow-up Note

Creation of Community Justice Centres Government of Alberta Engagement Session Thoughts and Recommendations

March 24, 2023

Introduction

[1] On January 26, 2023, the Government of Alberta's Ministry of Justice consulted with Alberta's Francophonie in regards with the creation of Community Justice Centres ("CJCs"). Nearly 15 participants attended the event, including representatives of community organizations such as the ACFA, the Association des juristes d'expression française de l'Alberta ("AJEFA"), the Réseau en immigration francophone de l'Alberta ("RIFA") and the Conseil scolaire Centre-Nord ("CSCN").

[2] The ACFA, the spokes-organization for Alberta's Francophonie, and the AJEFA, the leading organization in the justice sector in French, want to take this opportunity to discuss in greater depth several important elements that participants shared with representatives of the Ministry of Justice and the Francophone Secretariat during the engagement session. We believe it is important to understand these elements as they would allow the CJCs to offer services in French in a targeted manner to maximize available resources, while illustrating that Alberta's Francophonie is ready to collaborate with the government to provide these services.

[3] In particular, we will discuss the four priorities that have emerged for Alberta's Francophonie regarding the creation of CJCs: (1) that services should be offered "by and for" the Francophonie, (2) that the offer of services should take on a provincial and not just a local dimension, (3) that the diversity of communities within the Francophonie should be taken into consideration, and (4) that the offer of services available in the CJCs should be equitable to serve better populations that are more likely to require services in French. However, we will first present the existing legislative frameworks that ensure the provision of services in French in Alberta by the provincial and federal governments.

Legislative Frameworks

[4] Some of the issues raised during the engagement session are related to problems involving elements of the legal system that fall under federal and provincial jurisdiction. The federal and provincial governments have legislative frameworks for providing services in French.

[5] At the provincial level, the *French Policy* was adopted in 2017 and revised in 2023. Through this *Policy*, the Government of Alberta "is committed to enhancing services in French to support the vitality of the Francophonie in Alberta in a target and sustainable manner as resources allow."¹ In addition, one of the *Policy's* guiding principles states that "Services in French that are currently provided or developed on the future are practical and respond to the real needs of the French-speaking community. Once a service is provided, it is usable, accessible, and of comparable quality to the equivalent service in English."² The scope of the *Policy* "applies to all Government of Alberta departments, agencies, boards and commissions, and to court services."³

[6] The Government of Alberta has developed an action plan to ensure the implementation of the *French Policy*. In its 2020-2023 Action Plan, the Government of Alberta committed to "Building government capacity to enhance and develop services and supports in French."⁴

[7] In addition, the Alberta *Languages Act* recognizes a right to use French in several courts, including those of criminal jurisdiction. Subsection 4(1) of the *Act* provides that "Any person may use English or French in oral communications in proceedings before the following courts: (a) the Court of Appeal of Alberta; (b) the Court of King's Bench of Alberta... (d) The Provincial Court of Alberta."⁵

[8] To ensure the development of services in French, the Government of Alberta has access to several federal government funds dedicated to this purpose, notably through the *Canada-Alberta Agreement on French-Language Services*. This agreement with the federal government's Department of Canadian Heritage is specifically designed to develop the offer of services in French within the province. Projects for the development of justice services in French are possible under this agreement.⁶

[9] At the federal level, the *Official Languages Act*, adopted in 1969 and revised in 1988 and 2005, recognizes French as one of the two official languages in Canada. In short, the *Act* ensures that services under federal jurisdiction are available in French throughout Canada. With respect to the judicial system, specifically, this includes policing services provided by the Royal Canadian Mounted Police ("RCMP") and the federal courts.

[10] In August 2022, the federal government also adopted a directive on communication with the public and the delivery of services subject to the *Official Languages Act*. This directive requires federal institutions to provide services in the official language of the minority when there is a "presence, in their service area, of a minority language primary or secondary public educational facility."⁷

¹ Government of Alberta, 2023. *French Policy: Enhancing services in French to support the vitality of Alberta's French-speaking communities*. <https://open.alberta.ca/dataset/713b7d93-c164-496a-8da8-813a34066ec4/resource/e9a9be57-1625-4bb7-82fb-cdfdb84c83c2/download/cul-french-policy-2023-english.pdf>

² Government of Alberta, 2023. *French Policy*.

³ Government of Alberta, 2023. *French Policy*.

⁴ Culture, Multiculturalism and Status of Women, Government of Alberta, 2020. *French Policy 2020-2023 Action Plan*. <https://open.alberta.ca/dataset/96f8b5e5-7bf3-433b-832b-285dfff9da82/resource/cf497bed-18e4-4c14-a7b1-346063c92a51/download/cmsw-french-policy-action-plan-2020-23.pdf>

⁵ Languages Act, RSA 2000, <https://canlii.ca/t/55qq7>

⁶ Francophone Secretariat, Alberta Culture, Multiculturalism and Status of Women. <https://open.alberta.ca/dataset/f8a8b4ed-33e8-4b56-ac75-7aa991a19ce6/resource/e7ad6bd5-937c-4bd7-a9df-a84a9df5fe14/download/cmsw-2018-2019-canada-alberta-agreement-on-french-language-services-application-guidelines.pdf>

⁷ Government of Canada, 2022, *Directive on the Implementation of the Official Languages (Communications with and Services to the Public) Regulations*. <https://www.tbs-sct.canada.ca/pol/doc-eng.aspx?id=26163>

[11] In addition to the *Official Languages Act*, other federal laws specifically guarantee access to legal proceedings in French for all of Canada, including Alberta. For example, section 133 of the *Constitution Act, 1867*, section 19(1) of the *Canadian Charter of Rights and Freedoms*, and section 530 of the *Criminal Code* guarantee that Albertans have the right to have a trial in French before the federal courts.

[12] Considering the legislative frameworks described above and the fact that the Government of Alberta will share the information acquired during the engagement session with the federal government, the ACFA and AJEFA recommend that the Government of Alberta create a plan to ensure that services that are available at CJsCs be available in French. Below we present some ideas and solutions to achieve this.

Thoughts and Recommendations

(1) Services by and for Alberta's Francophonie

[13] Alberta's Francophonie is well-established in the province through its history, demographics, and institutions. The first francophone presence in Alberta dates back to the 18th century. As early as the 19th century, several Métis communities, Franco-Catholic missions, and Francophone villages were established. Four of these villages have become officially bilingual: Beaumont, Legal, Falher, and Plamondon.⁸

[14] Today, Alberta has the largest population with French as its first official language spoken and living in a minority setting in Canada after Ontario and New Brunswick.⁹ According to the 2021 Census data, approximately 79,965 (1.88%) Albertans have French as their first official language spoken, 88,005 (2.06%) have French as their mother tongue, and 261,435 (6.13%) can conduct a conversation in French.

¹⁰

[15] More importantly, there has been an increase in the French-speaking population over the years. The number of Albertans with French as their first official language spoken has increased by 35.9% over 20 years (2001-2021).¹¹ The number of Albertans with knowledge of French has increased by 54.6% over 30 years (1991-2021).¹²

[16] To serve this population, there are 43 Francophone schools, four Francophone school boards, nearly 40 Francophone daycares and preschools, one French-language post-secondary institution, 215 schools that offer programs for French-language learners (e.g., French immersion) and more than 60 community organizations.

⁸ Government of Alberta. "Francophone heritage in Alberta." <https://www.alberta.ca/francophone-heritage.aspx>

⁹ Statistics Canada. *Census Profile, 2021 Census of Population, Alberta*.

¹⁰ Statistics Canada. *Census Profile, 2021 Census of Population, Alberta*.

¹¹ Statistics Canada. 2019. *The French Language in Alberta, 2001 to 2016: Facts and Figures*.

<https://www150.statcan.gc.ca/n1/pub/89-657-x/89-657-x2019016-eng.htm>; Statistics Canada. *Census Profile, 2021 Census of Population, Alberta*.

¹² Statistics Canada. 2019. *The French Language in Alberta, 2001 to 2016 : Facts and Figures.*; Statistics Canada. *Census Profile, 2021 Census of Population, Alberta.* ; Statistics Canada. *Census Profile, 1991 Census of Population, Alberta.*; Statistics Canada. *Census Profile, 1996 Census of Population, Alberta.*

[17] Given the organization of Alberta's Francophonie, the "by and for" approach is recommended to effectively meet the needs of a well-established and growing French-speaking population in Alberta. The approach "gives communities the opportunity to determine their own needs and priorities and to recommend where government investments should be made to support their development."¹³

[18] French-speaking communities have developed and adopted a *new Action Plan for the Alberta Francophonie 2023-2028*¹⁴, which aims to guide the government on the opportunities and needs of Alberta's Francophonie regarding government services. The consultation process was rigorous and included interviews and focus groups with Francophone community organizations and a survey of over 500 members of Alberta's Francophonie. The Action Plan includes over 200 actions grouped into eight targeted intervention sectors. The consultations showed that having a greater offer of services in French in the Justice sector is a priority; the sector is among the top 3 priorities of Alberta's Francophonie.

[19] Since Francophone community organizations already have the expertise to serve Alberta's Francophonie, it would be prudent for the government to build on this existing expertise rather than create a system from the ground up. Among others, we can think of the AJEFA, which manages a bilingual legal information center¹⁵, and the Alliance Jeunesse-Famille de l'Alberta Society ("AJFAS")¹⁶, which has extensive experience in crime prevention and awareness projects.

[20] A CJC that is managed by Alberta's Francophonie and overseen by the government would help to implement the government's own *French Policy*. Having a facility where members of Alberta's Francophonie can get services in French would constitute an "active offer" of service as defined by the *Policy*.¹⁷ A centralized service would allow individuals to have a central point of contact, decreasing the time spent traveling and removing some of the impediments to accessing these services.

[21] **In this way, the ACFA and AJEFA recommend that at least one (1) CJC by and for Alberta's Francophonie be established.** Alberta's Francophonie remains available to work with the ministry to identify the best location and mechanisms to implement the CJC. This would ensure that the CJC is effective and meets the real needs of Alberta's Francophonie. We can cite the example of *La Cité Francophone* in Edmonton as a central location where more than 30 Francophone community organizations are grouped together to serve Alberta's Francophonie in several sectors of intervention.

[22] In addition, if CJs are envisioned as a place where many services are integrated, from health care and social services to justice, all of the services themselves must be accessible in the language of the person accessing the CJC.

¹³ Fédération des communautés francophone et acadienne du Canada. 2017. *Des impacts durables par et pour les communautés francophones en situation minoritaire*. Translation from French.

¹⁴ ACFA. 2022. *Action Plan for Alberta's Francophonie 2023-2028*. https://acfa.ab.ca/wp-content/uploads/2022/11/Version-officielle_Plan-daction-FRAB_EN.pdf

¹⁵ Centre albertain d'information juridique. <https://www.infojuri.ca/en/>

¹⁶ L'Alliance jeunesse-famille de l'Alberta Society. <https://ajfas.ca/en/>

¹⁷ Government of Alberta, 2023. *French Policy*.

[23] The Government of British Columbia has identified some underlying health and social factors that often lead to crime. These may include drug addiction, alcoholism, mental illness, poverty, and lack of job and social skills, which make it difficult for an individual offender to break the cycle of criminal activity.¹⁸ We know from research that language is a determinant of health and not having access to health services in the patient's first language creates "inequalities" in health outcomes.¹⁹ Therefore, if many people come into contact with the justice system because of a lack of health, mental health, and social services, this makes these services a determinant of justice; thus, it is clear that language is also a determinant of justice.

[24] As for health services, the ACFA and Réseau santé Alberta ("RSA"), the leading organization in the health sector in French, are already working to raise awareness among the government of the need for health and social services in French. This would provide continuity in the offer of services in French. The ACFA and RSA have made it clear to the Minister of Health in the MAPS modernization proposal²⁰ that language is a determinant of health.

[25] With respect to social services, the ACFA is currently conducting a comprehensive analysis of the availability of social services in French in Alberta. The firm KPMG has been selected by ACFA to conduct this analysis. More specifically, the first stage of this analysis is to identify existing services available in French and priority community needs. The firm is working with community organizations (Francophone and Anglophone), government institutions, and the general public to provide the ACFA with a detailed portrait of the current situation. Once the analysis is finalized, the ACFA will publish the findings.

(2) Provincial and Local Service Offerings

[26] About one-third of the French-speaking population lives in Calgary, one-third in Edmonton, and the remaining third is scattered among medium-sized cities (Grande Prairie, Fort McMurray, Red Deer, Lethbridge), cities with federal services such as national parks (Jasper, Banff, Canmore) and military bases (Wainwright, Cold Lake), more traditional rural communities (Peace River area, St. Paul, Bonnyville, Legal, Morinville, Beaumont, Plamondon) and new communities (Calgary and Edmonton suburbs, Brooks).²¹

[27] Thus, **the ACFA and AJEFA recommend that, when implementing the CJs, the government consider the geographic reality of Alberta's Francophonie.** It is imperative to have access to services regardless of where the person is located in the province.

¹⁸ Government of British Columbia. *The Community Court's Story*. <https://www2.gov.bc.ca/gov/content/justice/criminal-justice/vancouver-downtown-community-court/the-community-court-s-story>

¹⁹ Alexandra Ethier et Annie Carrier. 2022. « L'accessibilité des services sociaux et de santé chez les minorités de langue officielle du Canada et les facteurs influant sur leur accès : une étude de portée. » *Minorités linguistiques et société/Linguistic Minorities and Society*, 18 :198-234. <https://doi.org/10.7202/1089185ar>; Health Canada. "Social determinants of health and health inequalities ». <https://www.canada.ca/en/public-health/services/health-promotion/population-health/what-determines-health.html>

²⁰ ACFA and Réseau santé Alberta. 2022. *Modernizing Alberta's Primary Health Care System: Health Services that Consider Alberta Francophonie's Language and Cultures as Determinants of Health*. https://acfa.ab.ca/wp-content/uploads/2023/01/20221221_Memoire_ACFA-RSA_MAPS_EN_compressed.pdf

²¹ Statistics Canada, *Census Profile, 2021 Census of Population, Alberta*

[28] For example, CJs should have resources that can be used remotely, such as video conferencing or other means, to ensure they serve the entire province. There could also be a liaison person in all CJs dedicated to Alberta's Francophonie. This person would help Francophones navigate all the community organizations and services offered in French in the CJs or the justice, health or social services sectors, depending on the individual's needs. The designation of a liaison person will result in the ability to provide service in French at all CJs, even if the CJC is not designated as Francophone or bilingual. This would be complementary to the creation of a CJC by and for Alberta's Francophonie. The judicial, health, and social services systems have French-speaking staff; the government could identify them and assign them to the CJs as needed. The ACFA could work with the government to develop a list of resources available in French in Alberta that could be distributed to liaison persons within CJs across the province.

[29] It should be noted that the ACFA is currently collaborating with the Government of Alberta's Francophone Secretariat to produce a demographic profile of Alberta's Francophonie. This profile will help better understand where French-speaking Albertans are located in the province and then better identify the greatest needs for services based on geography. The profile should be available in the next few months.

(4) Diversity of Alberta's Francophonie

[30] Although many French-speakers were born in Alberta, most came from all over Canada and the world. Among Albertans with French as their mother tongue, 25% were born in Alberta, while 50% came from elsewhere in Canada (e.g. Quebec, New Brunswick, Ontario) and 24% from elsewhere in the world, mainly from Africa.²²

[31] The proportion of the Francophone population coming from Africa will continue to grow in the coming years, as the federal government has significantly increased the number of francophone immigrants who are admitted to the country. Between 2015 and 2021, Alberta admitted an average of 567 Francophone immigrants yearly. In 2022, there were 1,510 admissions, an increase of 266% over the average.²³

[32] CJs must be safe spaces for people of all backgrounds, including the significant Black population in our Francophone communities across the province. Since Black people are both more likely to be victims and defendants, it is possible that they will also be more likely to use CJC services.

[33] In fact, the judicial system is fraught with systemic racism.²⁴ The proportion of Black people who say they believe the criminal justice system is fair to all is 19 percent.²⁵ Black people are overrepresented

²² Government of Alberta. 2018. *The Francophonie in Alberta: Strong and Vibrant*. <https://open.alberta.ca/dataset/56de91f7-c69e-4fac-8e82-a3b8c9025f25/resource/f4bf7d7f-cda2-4910-9b8e-daeb496553e9/download/albertasfrancophoniecommunitiesstrongandvibrant.pdf>

²³ Government of Canada. IRCC. *Permanent Residents – Monthly IRCC Updates*. https://www.cic.gc.ca/opendata-donneesouvertes/data/EN_ODP-French-speaking-PR-ProvlmmCat.xlsx

²⁴ Law Society of Alberta. <https://www.lawsociety.ab.ca/about-us/key-initiatives/equity-diversity-and-inclusion-initiatives/acknowledgment-of-systemic-discrimination>

²⁵ Government of Canada, Ministry of Justice. 2022. *Overrepresentation of Black People in the Canadian Criminal Justice System*. <https://www.justice.gc.ca/eng/rp-pr/jr-obpccjs-spnsjpc/index.html>

among defendants by a factor of two.²⁶ They also represent 6% of the accused, but only 3% of the general population. Indeed, although they are 24% less likely to be convicted, when found guilty, they are 24% more likely to be imprisoned and 36% more likely to receive a sentence of more than two years.²⁷

[34] In Alberta, Black adults represent about 4% of the general population, but represent 6% of admissions to custody. Black youth (12 to 17 years old) represent nearly 4% of the population under the age of 18, but account for about 10% of admissions to correctional services.²⁸

[35] In addition, of the 788 homicide victims in the country in 2021, 120 of them were Black-identifying people, accounting for 15% of all homicides in the country. This is a higher rate relative to their demographic weight.

[36] For these reasons, **the ACFA and AJEFA recommend that CJC staff be trained to provide an inclusive service that considers all aspects of the identities of people who are using the CJs, including intersectionality with linguistic identity.**

(4) Equitable Service Offerings

[37] Although many Francophones living in minority settings are bilingual, this does not mean that these Francophones do not have this need for concordance between their mother tongue and the government services they receive. In fact, researchers believe that “we cannot... assume that a bilingual person who can converse in a second language can express themselves at the same level as a person whose first language is that language.”²⁹ Two populations are particularly important to consider for this offer of services in French: immigrants and school-age children.

[38] First, for Francophone immigrants, they have a reduced ability to use their second official language. More specifically, in the case of French-speaking immigrants or those who have French as their first official language spoken, the use of English adds to the difficulty of communicating with professionals, for example in the health field, as well as many problems in understanding how to navigate the systems.³⁰

[39] In addition, the Conseil scolaire Centre-Nord, the regional Francophone authority for several municipalities, noted during the engagement session that their staff must intervene in situations where the parent or child does not speak English. Services offered by the justice, health, and social services systems throughout the province are not necessarily offered in French. Often, when it is necessary to

²⁶Government of Canada, Ministry of Justice. 2022. *Overrepresentation of Black People in the Canadian Criminal Justice System*.

²⁷Government of Canada, Ministry of Justice. 2022. *Overrepresentation of Black People in the Canadian Criminal Justice System*.

²⁸Government of Canada, Ministry of Justice. 2022. *Overrepresentation of Black People in the Canadian Criminal Justice System*.

²⁹Marie Drolet et al. 2017. “Enjeux de l’accessibilité et de l’offre active des services sociaux et de santé au sein de la francophonie canadienne en situation minoritaire.” In *Santé et services sociaux en contexte linguistique minoritaire*, edited by Marie Drolet, Pier Bouchard and Jacinthe Savard, University of Ottawa Press, pages 14-32. *Translation from French*

³⁰Mwali Muray et al. 2022. “L’accès aux soins de santé des communautés de langue officielle en situation minoritaire (CLOSM) au Canada : une recension des écrits.” *Minorités linguistiques et société/Linguistic Minorities and Society* 19 : 62-94.

intervene in a school environment, especially in a Francophone school, a language barrier hinders the positive resolution of the situation. School administrators, teachers or even other parents are required to take on the additional role of translator, which leads to potential misunderstandings between all parties concerned.

[40] With that being said, the Government of Alberta has an obligation to provide a Francophone education equivalent to that of the majority. In its decision *Conseil scolaire francophone de la Colombie-Britannique v. British Columbia*, the Supreme Court of Canada ruled that “substantive equivalence” is the standard applied when a comparison is made between the minority language education system (in Alberta, the Francophone school system) and the majority language education system. Substantive equivalence “is delimited by the level of services to which the community is entitled.”³¹ Therefore, if social services, elements of the justice system, or other government services are called upon to intervene in a school setting, it would be incumbent upon the government to have substantive equivalency when that intervention takes place in a Francophone school setting.

[41] In addition to providing services in French through CJs by and for Alberta’s Francophonie and liaison persons, as mentioned above, the **ACFA and AJEFA recommend that the government ensure that an interpreter service is available (for example, the Language Line) when populations less likely to understand English are accessing CJs**. This reduces misunderstandings and inequities in justice and promotes more positive short- and long-term outcomes.

³¹Supreme Court of Canada. 2020. *Conseil scolaire francophone de la Colombie-Britannique v. British Columbia*. <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/18390/index.do>