

**OFFICE OF THE COMMISSIONER  
OF OFFICIAL LANGUAGES  
FOR NEW BRUNSWICK**



**COMMISSARIAT AUX  
LANGUES OFFICIELLES DU  
NOUVEAU-BRUNSWICK**

## **INVESTIGATION REPORT**

**FILE 2016-3006**

**February 2017**

**Department of Justice and Public Safety**

**Subject: Allegations of deficiencies in the delivery of service in French**

**SENT TO THE:**

**Premier  
Deputy Minister of Justice and Public Safety  
Clerk of the Executive Council  
Complainant**

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## CONTEXT

The matter under study addresses a complaint targeting the Department of Justice and Public Safety (“the institution”). In this case, several deficiencies with respect to the delivery of services in French are alleged. After consulting the parties to obtain their version of the facts, the Office of the Commissioner of Official Languages (OCOL) can summarize the incident as follows:

### Incident Summary

On Friday, May 27, 2016, at about 8:00 pm, the complainant was stopped on an off-road trail, near the Tobique River, by two conservation officers (“officers”), while driving an all-terrain vehicle (“ATV”). The first officer initiated the conversation in English without making an active offer of service in both official languages, to which the complainant responded in French, the complainant’s language of choice. The situation was such that the parties were unable to converse adequately.

During the “discussion”, the complainant gave a driver’s licence to the first officer having deduced that that was what he was asking for. It should be noted that during this time, the second officer did not get involved because, according to the complainant, he was unable to speak French. The complainant said that, following all of this confusion, the conservation officers motioned the complainant to leave the scene without providing more information and without giving a notice of violation or informing the complainant that one would be received at a later time. On May 30, at about 6:00 pm, the conservation officer who had stopped the complainant on May 27 and another bilingual officer arrived at the complainant’s home. The bilingual officer explained to the complainant that he and his fellow officer had come to give the complainant a notice of violation relative to the incident on May 27.

The complainant explained that, although the bilingual officer had not been at the scene of the May 27 incident, it was he who gave the notice of violation, written in French, in handwriting different from that of the signature at the bottom of the notice of violation dated May 27. The complainant refused to sign the notice of violation and informed the bilingual officer of the intent to probably challenge the notice of violation because the entire context of the issuing of the notice of violation did not seem right.

### Institution’s response

In its response, the institution refuted the majority of the allegations contained in the complainant’s complaint concerning the incident on May 27, 2016. The institution explained that on the evening when the events occurred, two conservation officers were patrolling in the area and they stopped the complainant, who was driving an all-terrain vehicle and not wearing a safety helmet.

The complainant stated that an active offer of service in both official languages was not made and that the service in the official language of the complainant’s choice was not provided.

The institution explained that the officer made an active offer and that the discussion was held in the complainant’s language of choice, i.e. French.

The institution submits that the officer who stopped the complainant made an active offer of service when he initiated the conversation and that he also spoke to the complainant in the complainant's language of choice, i.e. French. The institution maintains that the officer explained in French the reasons why he had stopped the complainant. The officer noted the necessary information and informed the complainant that he would come with one of his fellow officers within the next two days, and that the fellow officer would be able to write out a notice of violation in French.

The institution says that on May 30, 2016, at about 7:40 pm, this same officer, accompanied by a bilingual officer, came to the complainant's home. The bilingual officer then explained to the complainant in French the misdemeanour that had led to the notice of violation. The complainant refused to sign the notice of violation that was given, and the officers left the premises.

The institution refuted the majority of the allegations submitted by the complainant.

## INVESTIGATION

After receiving the complaint, the OCOL issued a notice of investigation to the institution concerned. In this case, the institution subsequently carried out its own internal investigation in order to refute or confirm the complainant's allegations concerning the reported incident.

The Office of the Commissioner took care to include in the notice of investigation ten (10) questions in order to clarify the context in which the incident occurred. The institution provided comments with respect to the questions raised by the OCOL and an analysis of the submitted replies is provided in this report. The following questions were submitted to the institution:

1. How many "zones" were established by the Department of Justice and Public Safety to delineate the regions of the province that are supervised by conservation officers?
2. In May 2016, what was the total number of conservation officers employed by the Province?
3. What is the minimum level of bilingualism<sup>1</sup> deemed to be necessary by the Department of Justice and Public Safety in order for a conservation officer to be able to carry out the duties of the job?

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<sup>1</sup> **Appendix A** – Oral Proficiency Rating Scale developed by the Department of Post-Secondary Education, Training and Labour

4. What was the bilingual capacity\* of conservation officers employed by the Province in May 2016?

$$\text{*bilingual capacity} = \frac{\text{Number of bilingual conservation officers}}{\text{Total number of conservation officers employed by the Province}}$$

5. What was the bilingual capacity of conservation officers in May 2016 for each zone identified in Question 1\*?

$$\text{*bilingual capacity per zone} = \frac{\text{Number of bilingual conservation officers}}{\text{Total number of conservation officers employed by the Province in zone X}}$$

6. What methods does the Department of Justice and Public Safety use to ensure that members of the public can be served in the official language of their choice when they have to communicate with conservation officers?
7. What is the prescribed procedure when a conservation officer stops an individual and the conservation officer is unable to communicate with the individual in his/her choice of official language? Please send us a copy of this policy or procedure.
8. Is the procedure followed by the conservation officers on May 27 and May 30, 2016, as described by the complainant, approved by the Department of Justice and Public Safety?
9. On May 27, 2016, how many conservation officers were on duty in the area where the incident described by the complainant occurred? Of this number, how many were bilingual?
10. In the past six months, i.e. since January 2016, how many situations occurred that made it necessary for notices of violation to be given out by conservation officers unable to communicate in the choice of official language of a member of the public? If applicable, please send a document containing this information.

- **Violation of the *Official Languages Act of New Brunswick***

Following receipt of the institution's response and after taking into consideration all of the facts submitted by the complainant and the institution, the OCOL finds, on a balance of probabilities, that the complaint submitted by the complainant is **founded**. Therefore in this case, there was a failure to comply with subsections 31(1), 31(2) and 31(3) of the OLA. The following obligations are set out in these subsections:

## Policing services

- 31(1)** Members of the public have the right, when communicating with a peace officer, to receive service in the official language of their choice and must be informed of that right.
- 31(2)** If a peace officer is unable to provide service in the language chosen under subsection (1), the peace officer shall take whatever measures are necessary, within a reasonable time, to ensure compliance with the choice made under subsection (1).
- 31(3)** A police force or agency, as the case may be, shall ensure the availability of the means necessary to respond to the choice made by a member of the public under subsection (1) and to support the obligation placed on a peace officer under subsection (2).

The OCOL reiterates that it supports this conclusion, on a balance of probabilities, having assessed the information submitted by the parties, considering, but not being limited to, the following:

- some inconsistencies were detected in the institution's response as to the first conservation officer's actual ability to speak French, and the institution neglected to state the bilingual capacity of the officer who stopped the complainant;
- the institution was unable to demonstrate that the complainant was able to understand what was said, without ambiguity, by the officer who stopped the complainant; and
- the institution is unable to ensure that service of equal quality in both official languages is provided at all times across the province.

To sum up, the institution was unable to refute the complainant's allegations and demonstrate that the conservation officer had indeed respected and effectively communicated in the complainant's official language of choice.

### • **Institution's detailed response**

In response to the complaint filed against it, the institution provided some explanations concerning the various aspects described by the complainant, including the active offer, delivery of services in the official language of choice, and the period of time that elapsed between the time the complainant was stopped and when the notice of violation was issued to the complainant.

The OCOL supports this conclusion, on a balance of probabilities, after assessing the facts submitted by the parties.

- Team composition and communication in the language of choice

The institution stated in reply to **Questions 2 and 3** that in May 2016, 79 conservation officers were employed by the Department and carried out their duties throughout the province. The institution stated that the level of second language proficiency required for a conservation officer to be considered bilingual was the intermediate plus (2+) level, and described the proficiency level as follows:

The institution stated that the level of second language proficiency required for a conservation officer to be considered bilingual is the intermediate plus (2+) level.

<b>Intermediate plus (2+) Limited Working Proficiency Plus</b>
Able to satisfy most requirements with language usage that is often, but not always, acceptable and effective. The individual shows considerable ability to communicate effectively on topics relating to particular interests and special fields of competence. Often shows a high degree of fluency and ease of speech, yet when under tension or pressure, the ability to use the language effectively may deteriorate. Comprehension of normal native speech is typically nearly complete. The individual may miss cultural and local references and may require a native speaker to adjust to his/her limitations in some ways. Native speakers often perceive the individual's speech to contain awkward or inaccurate phrasing of ideas, mistaken time, space and person references, or to be in some way inappropriate, if not strictly incorrect.

In reply to **Questions 4 and 5**, the institution stated the following regarding the bilingual capacity of employees responsible for conservation enforcement throughout the Province:

<b>Region</b>	<b>Bilingual Capacity</b>
Region 1 – Bathurst	83%
Region 2 – Miramichi	29%
Region 3 – Fredericton	30%

The bilingual capacity of officers across the province was 46%, i.e. 36 bilingual officers out of 79 for the entire province. The institution explained in reply to **Question 9** that on May 27, 2016, eight officers were working in the district where the incident occurred and that two of them had bilingual capacity. The institution stated that the officer who interacted with the complainant "had a good practical knowledge of French," but was not one of those identified as having bilingual capacity.

The institution replied to **Questions 6 and 7** about the general procedure followed to offer service in the language of choice, as well as the procedure followed when a conservation officer stops an individual and is unable to communicate with that individual in the latter's choice of official language. The institution stated that all officers were required to follow the Department's protocol. This response will be analyzed in depth in the next section.

### Issuing of the notice of violation

Although the grounds for the complaint do not essentially concern whether or not the notice of violation was valid, the OCOL wanted to learn more about the circumstances surrounding the issuing of the notice of violation in order to gain a better understanding of the events. In reply to **Question 8**, the institution stated that officers have up to six months after the date of an incident to issue a notice of violation. In other words, the officers were in the right to go to the complainant's home a few days later to issue a notice of violation to the complainant.

Lastly, the institution was unable to answer **Question 10** because it does not keep a record of the number of cases where an officer is unable to issue a notice of violation immediately in the official language of choice of a member of the public. However, the institution assured us that the active offer of service policy was complied with at all times and that, consequently, a notice of violation was always written up by a bilingual officer in the language of choice of the member of the public, either immediately or within a reasonable period of time.

In reply to **Question 1**, the institution stated that the choice of location of the court to which the complainant had to go to challenge the notice of violation was established in three regions, i.e., Miramichi, Bathurst and Fredericton, pursuant to the conservation legislation.

### **ANALYSIS**

The OCOL deems it is necessary to take a closer look at some elements of the answers provided by the institution in order to prevent recurrences of violations of the *Official Languages Act* and to ensure that the institution fully respects its language obligations.

- **Failure to follow the protocol**

In its reply, the institution described the procedures and appended the associated protocol to ensure that members of the public receive service in the official language of their choice at all times.

Based on the information received, the OCOL notes that the protocol, a copy of which was submitted by the institution, was not followed in this case. In fact, the protocol stipulates that all conservation officers must make an active offer of service in both official languages to members of the public and that if the officer is not bilingual, he or she must consult his/her pocket translator and give the bilingual questions and answers document to the member of the public to facilitate communication between both parties. If the member of the public wishes to engage in a conversation that exceeds the officer's capacity, the officer must call either a bilingual conservation officer or a bilingual RCMP officer or bilingual municipal police officer to request assistance. If none of these persons is able to come to the scene of the incident, the

The institution does not keep data indicating where conservation officers were unable to issue notices of violation on site in the official language of choice of members of the public.

unilingual conservation officer must communicate by telephone or radio with a bilingual conservation officer, a bilingual RCMP officer or a bilingual municipal police officer, who, from a distance, will provide assistance in following the procedure.

The protocol also states that the bilingual conservation officer must, among other things, inform the member of the public that a notice of violation will be issued if he/she wishes to plead guilty to the charge without appearing in court. In addition, the protocol specifically states that the bilingual conservation officer must give the bilingual questions and answers document to the member of the public to facilitate communication between both parties.

After analyzing the protocol in parallel with the facts presented by the parties, the OCOL notes that there is no mention reported of a “bilingual questions and answers document” that a unilingual or bilingual officer would have given to the member of the public to facilitate communication. Moreover, the parties did not refer to a telephone call made by the unilingual officer to obtain assistance from a bilingual fellow officer. Because the institution confirmed that the officer had “a good practical knowledge of French,” but was not one of the officers considered bilingual by the institution, how can it be stated in this case that the complainant who was stopped had indeed received quality service in the official language of choice and that the complainant was able to understand everything that the officer said?

Although this element seems self-evident, the protocol does not state that the officer must ensure that the member of the public has understood the reasons why he or she has been stopped before allowing the individual to leave the scene. So in a case where the conservation officer who stopped a member of the public is not bilingual, the officer should make sure that it is confirmed with that individual that the latter understands certain pieces of information, such as why he or she was stopped, the notice of violation received, and, if applicable, any measures that will be taken.

With respect to the protocol, although the institution’s policy mentions a reasonable period of time deemed to be acceptable between when the member of the public is stopped and when a notice of violation is issued, there are no recorded data in that regard.

The OCOL deems that gathering data would help the institution gain a better understanding of what members of the French-speaking public go through when stopped by conservation officers in the conservation regions. The institution could then use these data as a basis and correct the situation by distributing its bilingual officers within the province according to operational requirements and identified needs. Ultimately, this analysis would help to improve the delivery of services in the official language of choice of the province’s residents and thus make it possible to serve the people of New Brunswick in an appropriate manner, as well as issue notices of violation, where applicable.

Officers must confirm with members of the public they have stopped that the latter have fully understood what the officers have said to them, before allowing those individuals to leave the location where they were stopped.

- **Bilingual capacity of conservation officers**

As stated in the previous section, the institution maintained—despite the fact that the officer is not one of the designated bilingual officers, meaning that his level of second official language proficiency is less than 2+—that the officer was able to effectively communicate all of the information to the complainant. The complainant submitted to have been unable to converse with the conservation officer and that, following all of this confusion, the conservation officers motioned to the complainant to leave the scene without providing additional information. In that regard, the OCOL points out in many of its reports the fact that the Department of Post-Secondary Education, Training and Labour describes the intermediate plus (2+) level as a limited ability in the second official language, as follows:

“Native speakers often perceive the individual's speech to contain awkward or inaccurate phrasing of ideas, mistaken time, space and person references, or to be in some way inappropriate, if not strictly incorrect”.<sup>2</sup>

Furthermore, the institution stated in its reply that the officer who interacted with the complainant has a “good practical knowledge of French”. The OCOL finds that the institution’s answer is insufficient to attest that service of equal quality was provided during the incident concerned. If that were the case, the officer would have been able to communicate effectively with the complainant and would also have been able to promptly give the notice of violation in the complainant’s choice of official language, i.e. French, at the scene.

The complainant also stated that the officers did not give a notice of violation or inform the complainant on the evening of May 27, 2016, that one might be received later. The quality of the second language used by a front-line employee must be adequate; otherwise, how can an institution confirm that it provides service of equal quality, as required as part of the obligations with respect to service pursuant to the *OLA*? The active offer of service statement and the delivery of services in the language of choice of the member of the public help to prevent misunderstandings and lack of understanding in discussions between front-line employees and members of the public.

The institution’s operative words should be the following: Conservation officers have a unilateral responsibility to make an active offer of service and to respect the choice of official language of members of the public by either having the necessary language proficiency to carry out required tasks, i.e. converse in adequate French with a member of the public in this case, or by requesting assistance from a bilingual officer when stopping a member of the public.

The OCOL reiterates that it the officers’ responsibility to ensure that what they say is clearly stated and that they are fully understood by the member of the public they

Specific data on instances where members of the public have been stopped and on the notices of violation issued could be used to draw up a profile of what members of the Francophone public experience when they are stopped.

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<sup>2</sup> **Appendix A** – Oral Proficiency Rating Scale developed by the Department of Post-Secondary Education, Training and Labour – Intermediate plus (2+) Limited Working Proficiency Plus.

have stopped before allowing that person to leave the scene. Moreover, in order for the service provided by conservation officers to be in compliance with the obligations set out in the OLA, the delays that Francophones who are stopped in each conservation region experience must not be unreasonable.

• **Composition of bilingual teams – the cornerstone of quality service**

It is important to point out that, based on the information provided by the institution, the OCOL concludes that there are approximately 25 conservation officers assigned to each region. For Regions 2 and 3 specifically, that means eight (8) bilingual conservation officers working within these teams, given that only one third of these officers are identified as having bilingual capacity. That means that, in order to provide service to members of the public in the official language of their choice without undue delay, these eight officers should take turns at all times throughout the defined area in order to serve as the bilingual officer on teams that would each have a unilingual officer.

Under these circumstances, whereas members of the Anglophone community are able to receive service without undue delay throughout New Brunswick, the majority of members of the public choosing to use French in Regions 2 and 3 are at risk of having to wait for a bilingual conservation officer or a bilingual member of the RCMP or municipal police to arrive at the scene of the incident, as stipulated in the “Department of Natural Resources Enforcement Protocol – Active Offer/Service in Both Official Languages”<sup>3</sup> (“the Protocol”).

This delay supported by the institution undoubtedly contributes to the fact that some members of the public resign themselves to communicating in English with officers who stop them, so as to avoid making procedures more complex and out of fear of having to suffer the consequences. Furthermore, in addition to the undue delay that the majority of members of the Francophone public in conservation regions 2 and 3 endure when they are stopped, as pointed out in **Questions 4 and 5**, there is the delay in issuing a notice of violation after a person has been stopped. The obligations set out in the OLA stipulate that members of the public have the right to be served in the official language of their choice and that the active offer of service must be clearly given by the conservation officer as soon as he/she arrives on the scene.

If the member of the public chooses to speak an official language in which the officer is not adequately proficient, and the officer is poorly informed about the obligations imposed on the institution pursuant to the OLA, this contributes to the member of the public not fully understanding as he or she seeks quality service in the official language of his/her choice. The OCOL reiterates that the responsibility to respect language obligations pursuant to the OLA falls entirely upon the institution, not upon its

The OCOL deems it is currently impossible for bilingual services of equal quality to be delivered in two of the three conservation regions.

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<sup>3</sup> **Appendix B** – Copy of Department of Natural Resources Enforcement Protocol – Active Offer/Service in Both Official Languages.

front-line employees. The first step is to audit language profiles and provide periodic training and appropriate tools to conservation officers, but the institution must also take action to ensure that these measures are successful.

The OCOL repeats its position, as stated in File 2015-2512, which involved this same institution: To be able to comply with the OLA, the institution must ensure that its front-line employees maintain or increase their level of proficiency in the second language. The OCOL also encourages the institution to audit conservation officers on an ongoing basis in order to assess their abilities to provide quality service in both official languages in accordance with the obligations set out in the Act.

- **Inconsistencies**

As previously mentioned, the OCOL noted some inconsistencies in the institution's response. In fact, although the institution stated that the officer who stopped the complainant was able to communicate in French, it said that the reason an officer was not on the scene when the complainant was stopped on May 27, 2016 was based on the following fact:

"The Department does not keep a record of the number of cases where an officer is unable to immediately issue a notice of violation in the official language of choice of the member of the public. However, be assured that management's active offer of service policy is followed at all times and that, consequently, a notice of violation will always be written up by a bilingual officer in the official language of choice of the member of the public, either immediately or within a reasonable period of time".

The OCOL cannot understand how the officer concerned could be able to communicate with the complainant in French and explain to the complainant unambiguously why the complainant had been stopped if his level of second language proficiency was below 2+, and why it was later necessary for a bilingual officer to get involved to give the notice of violation to the complainant.

- **Reasons**

For the sake of brevity, the OCOL sets out the following reasons in support of its conclusions regarding the grounds for the submitted complaint:

- the actual level of bilingual capacity of the conservation officer who stopped the complainant;
- failure to follow the protocol, because the officer did not have a pocket document and did not call a fellow officer to assist him in his actions in order to serve the complainant in the official language of choice; and
- lack of bilingual employees in the three regions to ensure that members of the public can obtain service in the language of their choice without undue delay.

How could an officer with a second official language proficiency level below 2+ have been able to effectively explain the reason for stopping the complainant?

## RECOMMENDATIONS

Given that in this case, it was found that the institution failed to respect its obligations under the OLA, meaning that it was unable to ensure the delivery of service of equal quality in both official languages to members of the public, the OCOL deems that certain measures must be implemented so that the institution can fully respect its obligations.

Consequently, it is important to reiterate, regardless of the conservation region in which a member of the public is stopped, that he or she has a right to obtain quality service in his/her official language of choice at all times. The Commissioner therefore deems it necessary to make the following eight recommendations:

### Linguistic profile and hiring of bilingual employees

- THAT** the institution conduct a study of the necessary linguistic profile for each provincial conservation region in order to ensure service of equal quality at all times and without undue delay;
- THAT** THAT the institution conduct an analysis of the linguistic profiles of all of its conservation officers to ascertain the actual capacity of its teams for the three designated regions;
- THAT** the institution accurately assess the necessary level of language proficiency for each team as well as the proficiency levels in employees' evaluation certificates in order to ensure the provision of services in both official languages at all times;
- THAT** upon receipt of the analysis of the necessary linguistic profile for each region, the institution undertake to comply with the linguistic profiles by hiring bilingual employees required for all of the conservation regions as soon as the next round of hiring takes place;

Certain measures must be implemented to prevent recurrences of failures to comply with the OLA.

## Training

- THAT** it be explicitly stipulated in the initial training provided for conservation officers in all of the regions that conservation officers have a responsibility to respect the choice of official language of members of the public after the latter have replied to the active offer of service made by the officer, pursuant to section 28.1 of the Official Languages Act (OLA);
- THAT** the protocol be revised in order to explain in greater detail the obligation of conservation officers to ensure, when a member of the public leaves the site where he/she was stopped, that the individual understands the information given by the conservation officer, primarily the reason for being stopped and any subsequent measures that may be taken;
- THAT** the institution adopt a policy intended to ensure full compliance with the OLA, that the institution gather accurate information on instances where conservation officers stop members of the public, in order to determine whether expressed choices of official language were respected; and
- THAT** the institution conduct in person audits of all of the conservation regions to assess whether service provided to members of the public by front line employees complies with the OLA.

## **CONCLUSION**

Pursuant to subsection 43(16) of the OLA, we respectfully submit this report to the Premier, to the Deputy Minister of Justice and Public Safety, to the Clerk of the Executive Council, and to the complainant.

The Office of the Commissioner also wishes to advise that pursuant to subsection 43(18) of the OLA, if the complainant is dissatisfied with the conclusions presented following this investigation, the complainant may apply to the Court of Queen's Bench of New Brunswick for a remedy.

[Original signed by]

Katherine d'Entremont, MPA  
Commissioner of Official Languages for New Brunswick

Dated at Fredericton, in the  
Province of New Brunswick,  
this 28th day of February, 2017

## APPENDIX A

### Oral Proficiency Rating Scale; Department of Post-Secondary Education, Training and Labour

#### **Novice (0+) Memorized Proficiency**

Able to satisfy immediate needs using rehearsed utterances. Shows little real autonomy of expression, flexibility or spontaneity. Can ask questions or make statements with reasonable accuracy only with memorized utterances or formulae. Attempts at creating speech are usually unsuccessful.

#### **Basic (1) Elementary Proficiency**

Able to satisfy minimum courtesy requirements and maintain very simple face-to-face conversations on familiar topics. A native speaker must often use slowed speech, repetition, paraphrase or a combination of these to be understood by this individual. Similarly, the native speaker must strain and employ real-world knowledge to understand even simple statements/questions from this individual. This speaker has a functional but limited proficiency. Misunderstandings are frequent, but the individual is able to ask for help and to verify comprehension of native speech in face-to-face interaction. The individual is unable to produce continuous discourse except with rehearsed material.

#### **Basic+ (1+) Elementary Proficiency Plus**

Can initiate and maintain predictable face-to-face conversations and satisfy limited social demands. He/she may, however, have little understanding of the social conventions of conversation. The native speaker is generally required to strain and employ real-world knowledge to understand even some simple speech. The speaker at this level may hesitate and may have to change subjects due to lack of language. Speech largely consists of a series of short, discrete utterances.

#### **Intermediate (2) Limited Working Proficiency**

Able to satisfy routine social demands and limited work requirements. Can handle routine work-related interactions that are limited in scope. In more complex and sophisticated work-related tasks, language usage generally disturbs the native speaker. Can handle with confidence, but not with facility, most normal, high-frequency social conversational situations, including extensive but casual conversations about current events, as well as work, family and autobiographical information. The individual can get the gist of most everyday conversations but has some difficulty understanding native speakers in situations that require specialized or sophisticated knowledge. The individual's utterances are minimally cohesive. Linguistic structure is usually not very elaborate and not thoroughly controlled; errors are frequent. Vocabulary use is appropriate for high-frequency utterances but unusual or imprecise elsewhere.

### **Intermediate+ (2+) Limited Working Proficiency Plus**

Able to satisfy most requirements with language usage that is often, but not always, acceptable and effective. The individual shows considerable ability to communicate effectively on topics relating to particular interests and special fields of competence. Often shows a high degree of fluency and ease of speech, yet when under tension or pressure, the ability to use the language effectively may deteriorate. Comprehension of normal native speech is typically nearly complete. The individual may miss cultural and local references and may require a native speaker to adjust to his/her limitations in some ways. Native speakers often perceive the individual's speech to contain awkward or inaccurate phrasing of ideas, mistaken time, space and person references, or to be in some way inappropriate, if not strictly incorrect.

### **Advanced (3) General Professional Proficiency**

Able to speak the language with sufficient structural accuracy and vocabulary to participate effectively in most formal and informal conversations on practical, social and professional topics. Nevertheless, the individual's limitations generally restrict the professional contexts of language use to matters of shared knowledge and/or international convention. Discourse is cohesive. The individual uses the language acceptably but with some noticeable imperfections; yet, errors virtually never interfere with understanding and rarely disturb the native speaker. The individual can effectively combine structure and vocabulary to convey his/her meaning accurately. The individual speaks readily and fills pauses suitably. In face-to-face conversation with natives speaking the standard dialect at a normal rate of speech, comprehension is quite complete. Although cultural references, proverbs and the implications of nuances and idioms may not be fully understood, the individual can easily repair the conversation. Pronunciation may be obviously foreign. Individual sounds are accurate, but stress, intonation and pitch control may be faulty.

### **Advanced+ (3+) General Professional Proficiency Plus**

Able to use the language to satisfy professional needs in a wide range of sophisticated and demanding tasks.

### **Superior (4) Advanced Professional Proficiency**

Able to use the language fluently and accurately on all levels normally pertinent to professional needs. The individual's language usage and ability to function are fully successful. Organizes discourse well, using appropriate rhetorical speech devices, native cultural references, and understanding. Language ability only rarely hinders him/her in performing any task requiring language; yet, the individual would seldom be perceived as a native. Speaks effortlessly and smoothly and is able to use the language with a high degree of effectiveness, reliability and precision for all representational purposes within the range of personal and professional experience and scope or responsibilities. Can serve as an informal interpreter in a range of unpredictable circumstances. Can perform extensive, sophisticated language tasks, encompassing most matters of interest to well-educated native speakers, including tasks which do not bear directly on a professional specialty.

Source: Judith Liskin-Gasparro. *Testing and Teaching for Oral Proficiency*. Boston: Heinle and Heinle Publications. 1987.

Department of Post-Secondary Education, Training and Labour, *Oral Proficiency Rating Scale* [Online] [http://www2.gnb.ca/content/gnb/en/departments/post-secondary\\_education\\_training\\_and\\_labour/Skills/content/AdultLearningAndEssentialSkills/oral\\_proficiencyratingscale.html](http://www2.gnb.ca/content/gnb/en/departments/post-secondary_education_training_and_labour/Skills/content/AdultLearningAndEssentialSkills/oral_proficiencyratingscale.html) (February 2017)

## APPENDIX B

### Copy of the DNR Enforcement Protocol - Active Offer/Service in Both Official Languages

#### DNR Enforcement Protocol Active Offer/Service in Both Official Languages

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**Background** Section 31 of the New Brunswick *Official Languages Act (OL Act)* requires peace officers to inform the public of their right to be served in an official language of choice.

The *OL Act* states:

*31(1) Members of the public have the right, when communicating with a peace officer, to receive service in the official language of their choice and must be informed of that right.*

*31(2) If a peace officer is unable to provide service in the language chosen under subsection (1), the peace officer shall take whatever measures are necessary, within a reasonable time, to ensure compliance with the choice made under subsection (1).*

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**Issues**

- 1) The ability of DNR Conservation Officers (COs) to fulfill the active offer requirement when interacting with clients.
- 2) The ability of DNR COs to properly conduct an investigation for an offence in both official languages, as stated in section 31(1) of the *OL Act*.
- 3) The ability of DNR COs to properly place a client under arrest during an investigation for an offence in both official languages, as stated in section 31(1) of the *OL Act*.

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**Protocols** These protocols are developed from the guiding principles as cited in section 31(2) of the *OL Act*:

*...the peace officer shall take whatever measures are necessary, within a reasonable time, to ensure compliance with the choice made under subsection (1).*

**Protocol (1)** – Fulfillment of the active offer requirement when interacting with clients.

- All COs will greet all clients with Hello/Bonjour.
- In the event the CO can not communicate in the client's language, the CO will refer to their pocket translator cards (see appendix "A").

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- The CO will provide the client with a bilingual Question and Answer document to facilitate communication between the CO and client.
- If the client wishes to engage in conversation that is beyond the ability of what the CO can provide with translator cards, the CO will:
  - Contact a bilingual CO via cell phone, who will then communicate with the client.
  - If a CO can not make contact with a bilingual CO, the attending CO will obtain the client's name and number and will advise that a bilingual CO will make contact with them as soon as practicable to answer any of the client's questions.

**Protocol (2)** – To conduct an investigation [section 31(2)] for an **offence** in both official languages.

- All COs will greet all clients with Hello/Bonjour.
- In the event a CO encounters a violation for a ticketable offence and the CO can not communicate in the client's language, the CO will:
  - Not issue a ticket.
  - The investigating CO will request a bilingual CO to attend to the location who will then continue the investigation by issuing a ticket in the client's language of choice.
  - If a bilingual CO can not attend to the location within thirty (30) minutes, the investigating CO will request a bilingual member of the RCMP or municipal Police to attend the scene in order to assist with the investigation.
  - If a bilingual CO, RCMP, or municipal Police can not attend the scene within thirty (30) minutes, investigating CO will make contact with a bilingual CO, RCMP or municipal Police to continue the investigation via cell phone or radio.

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- The bilingual CO will obtain and record the client's contact information.
- The bilingual CO will advise that:
  - As the case may be; the investigating officer present at the location will be seizing, for evidence, the clients fishing rod, gun, traps, etc.
  - Advise the client that a plea of guilty form will be sent to their address within the next few weeks or a ticket will be delivered to them in the event the client wishes to plead guilty to the charge without having to appear in court.
  - The CO will provide the client with a bilingual Question and Answer document to facilitate communication between the CO and client.
  - The investigating CO and the bilingual CO will communicate with each other in order to verify what has been communicated to the client before the client will be is permitted to leave.

**Protocol (3)** – To properly place a client under arrest or detain during an investigation for an offence.

- All COs will greet all clients with Hello/Bonjour.
- In the event a CO encounters a violation for which a client has been placed under arrest and the CO can not communicate in the client's language, the CO will:
  - Read the Charter Notice to the client in the CO's mother tongue.
  - Request a bilingual CO to attend to the location who will then continue the investigation by first reading the Charter Notice to the client in the client's language of choice.

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- If a bilingual CO can not attend to the location within thirty (30) minutes, the investigating CO will request a bilingual member of the RCMP or municipal Police to attend the scene in order to assist with the investigation.
  - If a bilingual CO, RCMP, or municipal Police can not attend the scene within thirty (30) minutes, investigating CO will make contact with a bilingual CO, RCMP or municipal Police to continue the investigation via cell phone or radio.
  - The bilingual officer will obtain and record the client's contact information and all responses to any questions asked in his/her notebook.
  - The bilingual officer will advise that:
    - As the case may be; the investigating officer present at the location will be seizing, for evidence, the clients fishing rod, gun, traps, etc.
    - Advise the client that a summons will be sent to their address within the next few weeks.
    - The investigating CO and the bilingual CO will communicate with each other in order to verify what has been communicated to the client before the client will be permitted to leave.
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#### **Next Steps**

- A training workshop presentation will be developed that will explain the Protocols.
  - The presentation will be delivered to all COs simultaneously with POPA ticket training in May of 2008.
  - During the workshop training, CO proficiency with use of the translator cards will be assessed.
  - Peer coaching for the correct enunciation of the words on the translator cards will occur at the office level.
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# DNR Enforcement Protocol

## Active Offer/Service in Both Official Languages

### Appendix "A"

POCKET TRANSLATOR	
ENGLISH	FRENCH
1. Good morning – afternoon / Good evening.	= Bonjour. = (bonjour) = Bonsoir. = (bonswar)
2. One moment please.	= Un moment s'il vous plaît. = (uhn mowman seal voo play)
3. Would you like to be served in French?	= Voulez-vous être servi en français? = (voolay-voo zaytre servée on fronsay)
4. I don't understand French.	= Je ne comprends pas le français. = (je ne compran paw le fronsay)
5. I will call/get a bilingual officer to serve you.	= Je vais chercher un agent bilingue. = (je vay shai/shay uhn ajan beeliang)
6. I will get someone bilingual to call you back. Please give me your name and phone number.	= Je vais demander à un agent bilingue de vous rappeler. Donnez-moi votre nom et votre numéro de téléphone. = (je vay demonday a uhn ajan beeliang duh voo rappelay, Donnay mwa votre no ay votre newmayrow duh taytayfun)
7. Please have a seat.	= Asseyez-vous. = OR = Assoyez-vous. = (assayay voo) (asswojay voo)
8. A bilingual officer will be here in a moment.	= Un agent bilingue sera ici dans un moment. = (uhn ajan beeliang sera eessee don zuhn mowman)
9. Please follow me.	= Suivez-moi s'il vous plaît. = (sweevay-mwa seal voo play)
10. Thank you.	= Merci. = (mare-see)
11. You're welcome.	= Je vous en prie. = OR = De rien. = (je voo zan pree) (duh reean)



TRADUCTEUR DE POCHE	
FRANÇAIS	ANGLAIS
1. Bonjour.	"Good morning – afternoon." (goude mornigne – attemoune)
Bonsoir.	"Good evening." (goude ivnigne)
2. Un moment s'il vous plaît.	"One moment please." (wone mômeunte plize)
3. Voulez-vous être servi en anglais?	"Would you like to be served in English?" (woud iou laque tou bi seurv'd ine english)
4. Je ne comprends pas l'anglais.	"I don't understand English." (ail donte onedeurstande english)
5. Je vais chercher un agent bilingue.	"I will get a bilingual officer." (ail wil guette é bail-ligneoual offisseur)
6. Je vais demander à un agent bilingue de vous rappeler. Donnez-moi votre nom et votre numéro de téléphone.	"I will get someone bilingual to call you back. Please give me your name and phone number." (ail wil guette somme-ouone bail-ligneoual tou collie iou bac. Plize guive mi ioure naime anne fond number)
7. Asseyez-vous. OU Assoyez-vous.	"Please have a seat." (plize have é site)
8. Un agent bilingue sera ici dans un moment.	"A bilingual officer will be here in a moment." (é bail-ligneoual offisseur wil be hire ine é mômeunte)
9. Suivez-moi s'il vous plaît.	"Please follow me." (plize folleau mi)
10. Merci.	"Thank you." (tank iou)
11. Je vous en prie. OU De rien.	"You're welcome." (ioure oeulcomme)

