

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



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

**NOVEMBER 2014**

**INVESTIGATION REPORT**

**DEPARTMENT OF PUBLIC SAFETY**  
**(ROYAL CANADIAN MOUNTED POLICE – RCMP)**

**SENT TO: THE PREMIER  
THE DEPUTY MINISTER  
THE RCMP COMMANDING OFFICER  
THE COMPLAINANT**

**IN THE MATTER OF THE *OFFICIAL LANGUAGES ACT*  
OF NEW BRUNSWICK, R.S.N.B. 2002, CHAPTER O-0.5**

**Subject: Complaint under the *Official Languages Act*  
Department of Public Safety – Royal Canadian Mounted Police (RCMP)  
Alleged Deficiencies in the Provision of Services in French**

**INVESTIGATION REPORT**

**1. Complaint**

The following complaint was filed at our office on July 4, 2014:

At 8:11 on the morning of Friday, July 4, 2014, the complainant called 1-888-506-1472 to contact the RCMP. The complainant wanted to speak to an officer assigned to the Memramcook region to report noisy all-terrain vehicle traffic around his parents' residence.

The dispatch operator answered in both official languages, and the conversation continued in the language chosen by the complainant, that is, French. The dispatch operator took note of the complainant's concerns and assured him that an officer would call him back.

At 8:16 a.m., an RCMP officer phoned the complainant and left him a message in English only. Around 8:45 a.m., the same officer called the complainant back and spoke to him only in English.

The complainant is critical of the fact that his initial choice of language was not respected.

**2. Investigation**

On July 16, 2014, pursuant to subsection 43(13) of the *Official Languages Act* of New Brunswick (the "OLA"), a letter was sent to the Department of Public Safety (the "Department") conveying the complainant's allegations. In our letter, we asked the institution to answer the following questions:

1. How many members make up the Memramcook RCMP detachment?
2. What is the linguistic capacity of those members?
3. What measures are taken by the detachment to provide Memramcook residents with equitable services in both official languages?

We received the Department's reply on August 18, 2014, in a letter dated August 11. The following is an excerpt from that letter:

[Translation]

With respect to the Memramcook detachment, please be advised that Memramcook is no longer considered a stand-alone detachment with the majority of officers previously working from this site now reporting to the Sackville detachment. The area covered by the RCMP which includes Memramcook, Sackville and Shediac is comprised of 16 members, of which 15/16 meet the designated linguistic profile for their job function.

According to information received from the RCMP regarding the day in question, July 4, 2014, there were three officers working the day shift of which two possessed the designated linguistic profile for their job function. As is evident from the foregoing information, the RCMP has a significant proportion of members who meet the linguistic profile for the area concerned.

Of further pertinence to the events of the day in question, the RCMP advise that when the complainant contacted them, he spoke in French to their call dispatch centre asking only to speak to an officer. The dispatch centre subsequently requested a member to contact the complainant. It does not appear the dispatch operator advised the responding officer of the language of the caller, nor did the complainant specifically ask to speak to a French member although he did address the dispatch operator in French. As a result, a unilingual member took the call. According to the RCMP, when the member identified himself to the complainant, the complainant spoke to the officer in English regarding all-terrain vehicles (ATVs) in the area. The officer does not recall that the complainant requested service in French. The RCMP asserts that if the member had been aware of the need to respond to the complainant in French, he would have arranged to have a French speaking officer take the call.

It is important to note the Department of Public Safety recognizes the linguistic rights of members of the public in New Brunswick to receive service in their language of choice and that the institution/police service providing that service has an obligation to inform the public of those rights. The Department of Public Safety further acknowledges that bilingual greetings are a key component of this "active offer of service." In this case, it would appear that bilingual services were readily available to the complainant, with a complete rationale as to why these services were not rendered perhaps resting on the outcome of your final investigation.

On October 1, 2014, the complainant told us that he was unaware of this letter, even though his name appears on the list of people to whom the Department sent a copy. We therefore sent him an electronic copy the same day. After reading over the letter, the complainant expressed his disagreement with the Department's position. From reading the letter, the complainant felt it was being suggested that he shared responsibility for not being served in French. Furthermore, the complainant said that he had answered the officer's call in French, saying "Oui allô," and that that should have been an indicator of his language preference.

In the light of the above, we are able to draw convincing conclusions without the need to continue our investigation or invoke any additional powers such as those conferred on a commissioner under the *Inquiries Act*.

### **3. Analysis and Observations**

With respect to the responsibilities of members of the RCMP in New Brunswick, the *Police Act* of New Brunswick provides as follows:

**2(2)** Every member of the Royal Canadian Mounted Police, every member of a police force and every auxiliary police constable appointed under this Act has all the powers, authority, privileges, rights and immunities of a peace officer and constable in and for the Province of New Brunswick, and is *ex officio* an inspector under the *Motor Carrier Act*, a peace officer under the *Motor Vehicle Act* and a conservation officer under the *Fish and Wildlife Act*, and each member of and above the rank of corporal may exercise the powers conferred by section 9 of the *Fire Prevention Act*.

Consequently, when a member of the RCMP acts on behalf of New Brunswick under the Provincial Police Service Agreement, he or she is a “peace officer” as defined in the OLA. The matter of concern to us here pertains to the alleged non-application of the provisions of the OLA concerning policing services, specifically:

**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.  
[Emphasis added.]

**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).

It should be noted that, in this case, the member of the public was not in direct communication with a peace officer. In fact, the complainant phoned the RCMP dispatch centre first. By speaking French while talking with the dispatch operator who answered his call, the complainant indicated his language of choice. The dispatch operator should therefore have deduced that the complainant expected his request to be followed up on in the same language. Contrary to what the institution suggests, it was therefore not necessary for the complainant to “specifically ask to speak to a French member.”

The dispatch operators play a determining role in the chain of communication between the public and RCMP officers. Indeed, they are the first link in this chain, because they are the ones who speak to citizens first. The dispatch operators should be able to answer calls from members of the public in the official language chosen by these members and ensure that officers with the language capacity required follow up on those calls. Also, it seems fundamental that dispatch operators specify to the officers the language preference of the members of the public so they know in which language communication should take place. In

the matter of concern to us here, it therefore seems obvious that the dispatch operator committed a breach.

The information provided by the RCMP about the linguistic capacity of the members of the Sackville detachment (of which the municipality of Memramcook is now a part) suggests that this detachment has the capacity to adequately serve the municipalities in its area in both official languages. It would therefore have been possible to put the complainant in touch with an officer capable of speaking French. This is confirmed by the Department, which, in reporting an assertion by the RCMP, informs us that “if the member had been aware of the need to respond to the complainant in French, he would have arranged to have a French speaking officer take the call.”

The breach of the dispatch operator therefore explains why, when phoning the complainant, the officer did not know the official language that the complainant had chosen during his original call. For this reason, to be safe, he should have made an active offer of service to the complainant, that is, he should have offered him the choice of being served in French or in English. According to the allegations set out in the complaint and the information provided by the Department, there is every reason to believe that an active offer was not made. However, subsection 31(1) cited above provides that a peace officer is responsible for informing members of the public that they have this choice. In other words, members of the public do not need to ask for service in the official language of their choice.

This obligation seems to be understood and recognized by the Department, according to which “bilingual greetings are a key component of this ‘active offer of service’.” It is therefore regrettable that the complainant did not receive an offer to be served in the official language of his choice, even after he answered the officer’s call in French (“Oui allô). It seems obvious to us that the exchange between the officer and the complainant took place in English because the complainant was not given a choice.

#### **4. Conclusion**

It is clear that the complainant’s language rights were not fully respected when he contacted the RCMP in July 2014. Since the Department does not deny the complainant’s allegation, we find that this complaint is founded.

Our analysis found two elements that contributed to the incident reported by the complainant:

- first, when following up on the complainant’s request, the dispatch operator did not take into account the language chosen by the complainant during his call;
- second, the complainant did not receive an active offer of service from the officer who called him back.

It should be noted that the *Police Act* of New Brunswick provides as follows:

**PART I  
PROVINCIAL AND MUNICIPAL POLICE RESPONSIBILITY**

**1.1(1)** The Minister [of Public Safety] shall  
[...]  
(b) co-ordinate the work and efforts of police forces and the Royal Canadian Mounted Police within the province.

**1.1(3)** Subject to this Act and the regulations, the Minister may issue guidelines and directives to any police force within the Province for the attainment of the purposes of subsection (1).

This leads us to recommend the following:

**As the institution responsible for co-ordinating police services across New Brunswick, that the Department of Public Safety**

- a) require that RCMP dispatch operators record, at the time of first contact, the language preference of clients to ensure continuity in the chain of communication;**
- b) ensure that the authorities in RCMP J Division stress the importance of the principle and rationale of active offer to its members.**

In the event that the complainant is not satisfied with our conclusions, he can apply to the Court of Queen's Bench of New Brunswick for a remedy under subsection 43(18) of the OLA.

In accordance with subsection 43(16) of the OLA, we respectfully submit this report to the Premier, the Deputy Minister of Public Safety, the RCMP commanding officer, and the complainant.

[Original signed by]

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

Signed at Fredericton,  
in the Province of New Brunswick,  
this 13th day of November 2014

Encl.