

**Analytical Survey of Training in
Court Interpretation, Court Reporting and
Legal Translation**

**Final Report
(Translation of the original French report)**

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Summary

This report addresses the issue of training in three fields related to law and the administration of justice: court interpretation, court reporting and legal translation. Each of these fields contributes directly to access to justice, particularly equal access to justice in both official languages.

The purpose of this report is to provide an inventory and analysis of the training available for people who work, or want to work, in both official languages in these three fields. Based on our findings, the report also identifies gaps in training and proposes courses of action to remedy these gaps.

Methodology

Training in the three target fields was examined from three main perspectives, in order to make the analysis as useful as possible for the stakeholders concerned:

- Firstly, the report puts the three target fields in context by describing the role they play in access to justice and, more specifically, equal access to justice in both official languages.
- Secondly, the report describes the challenges encountered in each field and associated gaps in training, and recommends strategies to meet training needs identified.
- Lastly, the report addresses the importance of coordinating training initiatives to maximize their effectiveness and efficiency.

The two main data sources for the study were a document review and a series of interviews with representatives from the three target fields.

The context of access to justice

The three fields under study are integral to the concept of “institutionally bilingual” courts, referred to by the Supreme Court of Canada in its landmark *Beaulac* ruling. It is now recognized that access to justice in both official languages requires not only bilingual judges, lawyers and prosecutors, but also the support of other officers of the court, including interpreters and reporters, as well as the support of legal translators. It is also recognized that access to justice in both official languages exceeds the bounds of judicial proceedings. Other essential factors for equal access to justice, to which legal translators contribute directly, include the establishment of appropriate common law and civil law vocabularies in both official languages, the publication of laws and regulations in both official languages, and the publication of legal documents and legal information in both official languages.

Findings with respect to the three target fields

Training in court interpretation

There are many significant challenges involved in court interpretation in Canada and the evidence shows that many courts in Canada are still not able to provide satisfactory interpretation services, which inevitably entails legal risks.

Court interpreters face a long list of challenges. They often don't have the legal knowledge necessary to fulfill their function and their working conditions are uncertain at best. Also, many jurisdictions in Canada do not have specific rules governing the situations in which consecutive or simultaneous interpretation is to be used.

As for training, there are currently no postsecondary programs in Canada that allow interested individuals to specialize in court interpretation. Once they are on the job, interpreters have access to certain jurilinguistic tools, but very little access to ongoing training.

In view of these findings, we recommend the following strategies:

- *Work environment:* To provide adequate training for court interpreters, it will first be necessary to define more clearly what is expected of them. Consecutive interpretation and simultaneous interpretation are two different techniques, each requiring its own skill set and equipment. So it is imperative to know the type of interpreting required and the circumstances in which it will be used, factors not made clear in many courts across Canada.
- *Working conditions:* Although this issue is outside the realm of training, it is unrealistic to think that individuals interested in becoming court interpreters will be willing to invest in basic or ongoing training if they cannot expect to receive commensurate remuneration in their chosen career, as is currently the case in many parts of the country.
- *Practical or experiential training:* A systemic barrier that impedes efforts to provide adequate training for court interpreters is the lack of awareness or appreciation of the interpreter's role on the part of justice system stakeholders, many of whom would be able to contribute directly to this training (especially practical training).
- *Expanded basic training:* The delivery of court interpretation services of consistent quality across Canada will not be possible without an adequate and comprehensive basic training program, which does not exist at this time.
- *Continuing professional development:* Court interpreters must have access to continuing professional development activities that allow them to put into practice their knowledge and skills in the different types of interpretation in an environment that simulates the court setting in which they work. There are very few such activities available at this time.

Training in legal translation

At the time of writing, there was considerable uncertainty regarding succession in certain sectors of legal translation, despite increasingly pressing demand. Without a proper training strategy to support individuals interested in working in this field, we may see a decline in the quality of legal translation in Canada.

While the quality of translation for legislative texts and Supreme Court of Canada rulings is consistently high, it varies considerably for other courts across the country and other legal documents or information published in both official languages. Another major challenge is that the supply of providers (through succession) has not kept pace with the growing demand for legal translation over the past 30 years. We also found that many legal translators in Canada work without sufficient monitoring/coaching and without the feedback that is essential in this field.

As regards training, one fact is clear: there is currently no program in Canada dedicated to providing basic training in legal translation, and there are very few ongoing training activities available to legal translators.

These findings show there is a pressing need to address the lack of basic training in legal translation. At the time of writing, both Université de Moncton and the University of Ottawa were offering full common law programs in French. These two universities, as well as Université de Saint-Boniface, also offer translation programs that include law-related components. On the strength of this experience and using all the options made possible by new technology, the challenge now is to make available in Canada a program that provides true basic training in legal translation.

Efforts to achieve this goal can also be expected to produce additional ongoing training options for legal translators. Our study found that the priority for ongoing training is to provide legal translators with the opportunity to apply their knowledge and receive feedback on their work.

Training in court reporting

The advent of courtroom recording systems and the capability of producing transcripts from these recordings have significantly reduced the costs associated with hiring on-site court reporters. However, while these systems may have reduced costs, they require highly specialized and complementary skills on the part of those supervising the recordings and those transcribing the content to produce an official record of court proceedings. When it comes to bilingual or minority-language court proceedings, it becomes all the more important for these two players to be able to work effectively in both official languages, which is not always the case at this time.

As regards training, there are very few programs aimed at officers of the court who supervise the recording of court proceedings, and there is essentially no training in French for officers of the court responsible for transcribing these recordings.

Based on these findings, it is clear that concerted action will be required to develop language training for court reporters and transcribers with due regard for the specific realities of these distinct functions. This training will have to prepare transcribers to produce transcripts as effectively in French as in English in order to eliminate any resistance to the production of

French transcripts. Similarly, training for court reporters must prepare them to work effectively in French or in a bilingual setting so that they can provide all the support necessary for the production of quality transcripts in French.

Coordination of training efforts

This report is aimed at stakeholders in three fields, each of which involves functions of the utmost importance in ensuring true access to justice in both official languages. Given the limited number of practitioners and educators (current and future) in these fields, it will be imperative for stakeholders to coordinate their efforts if progress is to be made in the provision of both basic and ongoing training.

The greatest challenge faced by the stakeholders who provide training in the three target fields is the long-term viability of their activities and programs. Key considerations for training initiatives are promotion and accessibility, use of technology, effective allocation of roles and responsibilities, and economies of scale to ensure efficiency. It should also be noted that, since the three target fields contribute directly to the administration of justice, public investment is essential to ensure that the individuals who perform these functions receive proper training.

1.0 Introduction

This report addresses the issue of training in three fields relating to law and the administration of justice: court interpretation, court reporting and legal translation. Each of these three sectors contributes directly to access to justice, particularly to access to justice in both official languages. Courts cannot operate without the support of interpreting and reporting services. Similarly, legal translation is a fundamental pillar of a justice system like Canada's, where both French and English are recognized as official languages.

The purpose of this report is to provide an inventory and analysis of the training available for people who work, or want to work, in both official languages in these three fields. Based on our findings, the report also identifies gaps in training and proposes courses of action to remedy these gaps.

This study was commissioned by Université de Saint-Boniface, with the support of the National Network for Justice Training (RNFJ). Overseeing the study was a steering committee composed of representatives of Université de Saint-Boniface, Université de Moncton's Centre for legal translation and terminology (CTTJ), the Canadian centre for legal French (CCFJ) and the RNFJ. Financial assistance for the study was provided by the Department of Justice Canada.

The information is broken down into four main sections. Section 2.0 describes the methodology used to investigate research issues covered by the study. Section 3.0 gives an overview of the context in which each of the three target fields operates. Section 4.0 addresses training needs, while Section 5.0 presents the conclusions of the study.

This study could not have been carried out without the contribution and collaboration of numerous stakeholders. We would like to thank all those who generously participated in data collection and who supplied documentation throughout this project.

2.0 Methodology

This section briefly describes the methodological approach used to investigate the various research issues covered in the study.

2.1 Research issues

Training in the fields of court interpretation, court reporting and legal translation was examined from three main perspectives, in order to make the analysis as useful as possible for the stakeholders concerned:

- Firstly, the report puts the three target fields in context by describing the role they play in access to justice and, more specifically, equal access to justice in both official languages.
- Secondly, the report describes the challenges encountered in each field and associated gaps in training, and recommends strategies to meet training needs identified.
- Lastly, the report addresses the importance of coordinating training initiatives to maximize their effectiveness and efficiency.

Appendix A gives the analytical framework for the study, which describes in greater detail the research issues, the indicators used for each, and the corresponding sources of data.

2.2 Methods

Two sources of data were used for this study: a document review and a series of interviews with representatives from each of the three target fields.

Document review

The first step involved analyzing all the documents we had identified as pertinent to our study, which are listed in Appendix B. These documents contain descriptive information on the training currently offered in the three target fields, analyses of available training or related topics, as well as analyses that shed light on the role played by each of the three target fields in ensuring access to justice in both official languages.

Interviews

A total of 33 interviews were conducted with 37 interviewees (a number of interviews involved more than one participant). The list of individuals consulted was developed in direct collaboration with the study's steering committee and RNFJ members.

The following table shows the distribution of interviews by stakeholder group consulted:

Table 1: Distribution of interviews		
Stakeholder group	Number of interviews	Number of interviewees
Legal translators	6	6
Interpreters	4	4
Reporters	3	3
Jurilinguistic centres	4	5
Postsecondary institutions	6	7
Court administrators	3	6
Professional associations	2	2
Lawyers and judges	5	5
Total	33	38

The interviews were conducted by telephone using an interview guide adapted for each stakeholder group (sample interview guides are attached as Appendix C). All the information gathered through the interviews was analyzed based on the indicators for each research issue, using NVivo data analysis software.

Information from the interviews was combined with information from the document review to form the basis of the analysis provided in this report.

3.0 The context of access to justice

To understand training needs in court interpretation, court reporting and legal translation, we first need to define these three fields, bearing in mind that the work involved in each varies from region to region across the country. It will also be useful to look at the role each of these fields plays in the broader issue of access to justice.

3.1 Definition of the three target sectors

Court interpretation

Interpretation enables people who speak different languages to communicate verbally with each other. Its importance in the judicial context is self-evident. Be it arguments or testimony before a court or discussions between an accused and his or her counsel, there are innumerable scenarios in which the ability to communicate and the quality of the communication play a crucial role. This is why the right to an interpreter, under certain specific conditions, was formally recognized in Canada with the adoption of the *Canadian Bill of Rights* in 1960, and later elevated to a constitutional right under section 14 of the *Canadian Charter of Rights and Freedoms*.

This means that any party or witness in a proceeding who does not understand or speak the language of the proceeding or is deaf is entitled to the assistance of an interpreter. This right is not limited to Canada's two official languages; in principle, it applies to any language in which proceedings may be held in Canada.

A number of courts have had occasion to weigh in on the characteristics and qualities of court interpretation. The Supreme Court of Canada determined that, for interpretation to be considered adequate, "it must be continuous, precise, impartial, competent and contemporaneous".¹

There are basically three types of court interpretation:

- *Consecutive interpretation*: Its key feature being accuracy, this method requires that the speaker take regular pauses to give the interpreter time to translate and verbally communicate what is being said. At the very least, consecutive interpretation should be made available for anyone testifying before a court or when a court is addressing a party or a witness in a language other than their own.² The disadvantage of this method is that it takes time, so it slows the pace of the proceedings.
- *Simultaneous interpretation*: Often associated with parliamentary debates, conferences or other public forums, simultaneous interpretation does not incur delays because it virtually keeps pace with the speaker. Although accuracy may be slightly compromised, this type of interpretation is sometimes used in court proceedings. It is normally used for persons who are not proficient in the language of the proceedings so that they can understand what is being said, for example, in exchanges between counsel or between counsel and the judge.

¹ R. v. Tran, [1994] 2 S.C.R. 951.

² See Berk-Seligson, Susan. (2002). *Court Interpreters in the Judicial System Process*. University of Chicago Press, p. 46.

- *Whispered interpretation:* Lastly, whispered interpretation is a form of simultaneous interpretation in which the interpreter sits beside the person requiring the service and simultaneously translates in a whisper what is being said or what is happening. This type of interpretation has no legal value; it simply provides the person concerned with certain information during the proceedings that is relevant to that person.

The management of court interpretation services varies considerably across Canada. While some provinces or territories have a centralized process to certify court interpreters, others require no certification. While some provinces or territories have a centralized process to manage court interpretation services, others leave the responsibility to court administrators. Lastly, court interpretation services in French and English are sometimes managed differently or separately from services in other languages used before the courts.

By far the majority of court interpreters in Canada work on a freelance basis. Only a few are hired full-time by a provincial authority or a court.

Legal translation

Combining both linguistics and the law, legal translation essentially involves drafting a legal document in a different language. Since the law is shaped by changing concepts and different interpretations, legal translation requires far more than a literal, narrow rendering of a legal document into another language. What the legal translator needs to get across are the concepts conveyed in the document, regardless of the words used to express them.

Legal translation in Canada is further complicated by the coexistence of two legal systems, both of which operate in both official languages. So legal translators operate not only in the context of legal bilingualism specific to common law or civil law, but also within the broader framework of bijuralism, which creates added burdens, including harmonization of federal private law with common law and civil law.

For there to be translation, there must be two languages with the necessary vocabulary to adequately express the concepts to be translated. This premise has always been problematic when applied to legal translation in Canada, because common law was originally created in English and civil law was originally created in French. This historic legacy is what spurred the extensive work being done to standardize common law vocabulary in French and civil law vocabulary in English, both of which are essential to the practice and teaching of law in Canada.

In view of all these factors, it is not surprising that legal translation in Canada calls into play the skills of legal translators, legal terminologists and jurilinguists, although these disciplines often overlap: a legal translator may also be a jurilinguist.

The various contexts in which legal translation is practised include:

- *Legislative translation:* In Canada, federal acts, as well as the acts of the three territories and certain provinces,³ must be published in both official languages. Both the federal government and the New Brunswick government use a process of co-drafting, where two

³ The statutes of New Brunswick, Quebec, Ontario, Manitoba and the three territories must be published in both official languages. The same is true for certain statutes in Saskatchewan.

legal drafters write the legislative text together. From a purely technical viewpoint, this type of drafting is not really translation, even though there is some overlap between the two processes. The co-drafters are usually supported by jurilinguists with training or experience in legal translation. In the other provinces and territories, a type of simultaneous translation is normally used.

- *Translation of judgments:* Certain court rulings in Canada are published in both official languages, either to meet specific obligations or as standard practice.⁴ Note that only the Supreme Court of Canada systematically translates its decisions into both official languages. Different processes are used to obtain translations of judgments. Whereas the Supreme Court of Canada has its own team of jurilinguists and translators, other Canadian courts (including appeal courts) use outside translators. Some outside translators are specialists in legal translation (like jurilinguistic centres), but others may have no specific legal skills or knowledge. It is not unusual for lower court rulings, which are often brief and procedural, to be translated by translators-interpreters.
- *Translation of legal documents:* In private law practice, many different types of legal documents are drafted that can require translation, be they contracts between individuals or companies or documents relating to family or administrative matters. In some circumstances, documents are translated only for the benefit of the parties, while in others the translations are required by the court. These translations are obtained in a number of different ways: lawyers may be asked to translate the documents themselves, the parties may hire an outside translator (legal or not), and, in lower courts, the translation may be entrusted to translators-interpreters or bilingual court personnel.
- *Translation of legal information:* Governments, courts and certain community organizations offer legal information to the public. This information does not constitute formal legal advice; rather, it is intended to raise public awareness or to provide easy-to-access clarifications on various aspects of law. Here again, these translations may be obtained in a variety of ways, depending on the circumstances.

For the purposes of this study, legal translation encompasses all these possibilities, which all involve legal principles and concepts being conveyed from English into French or vice versa.

Court reporting

Technology has so transformed court reporting that it is now difficult to arrive at a standard definition of the work court reporters do. It is more useful to define the result of their work, which is a “court transcript”. Since a court transcript is an official account or record of what transpired during court proceedings, it is a document of prime importance for preliminary hearings or trials as well as appeals. Regardless of the method used to produce it, a court transcript is a verbatim record of what was said by persons participating in a legal proceeding. Clearly, it must also identify the speakers.

⁴ For a detailed description of the obligations and practices relating to the translation of judgments in Canada, see McLaren, Karine. (2015). La langue des décisions judiciaires au Canada. *Revue de droit linguistique*. Vol. 2, p. 1-57.

Historically, court transcripts were produced by in-court stenographers. By definition, a stenographer is “a person whose job is to transcribe speech in shorthand”, which in turn is “a method of writing rapidly by substituting characters, abbreviations, or symbols for letters, sounds, words, or phrases”,⁵ allowing the stenographer to keep pace with the speaker. Shorthand notes are then translated into conventional text.⁶ In the past, stenographers transcribed shorthand symbols manually; nowadays, this task is accomplished by software through what is known as “computer-aided transcription”.

Court transcripts are produced in essentially two ways:

- In most courts in Canada, deliberations are systematically recorded and, in some circumstances, a portion of those deliberations are reproduced in certified court transcripts submitted to the court or the parties. It is possible for transcripts to be produced without the use of stenography, for example when deliberations are recorded and the audio files are sent to someone who re-transcribes them on a conventional computer.
- In some circumstances, for example an examination on discovery, a court reporter attends the proceeding, transcribes everything that is said and produces a final transcript. In this case, the reporter will use stenotyping (machine typing, normally computer aided), to capture what is said in real time.⁷ The main advantage of computer-aided transcription is that the parties have almost immediate access to a complete transcript of what was said.

For the purposes of this study, the term “court reporting” will be used in the broadest sense to refer to the work performed by persons responsible for producing court transcripts, regardless of the method or technology used. Consequently, unless otherwise specified, court reporting will mean work carried out using a stenotype machine or a conventional typewriter.

3.2 Impact on access to justice

The importance of language in ensuring access to justice

Few topics associated with the justice system currently generate as much interest as the very concept of *access* to justice. And it’s not hard to understand why: without access, there can be no justice. These two concepts are so closely linked they are almost redundant. As the Chief Justice of the Supreme Court of Canada recently pointed out, “The cry for access to justice is rising from what was once a dull murmur to a crescendo.”⁸

Language has always been a factor in the concept of access to justice, as evidenced by the fundamental right to the assistance of an interpreter. In Canada, linguistic considerations are

⁵ Definitions taken from *Oxford Living Dictionaries* online.

⁶ Stenographic or shorthand notes may be taken by hand (stenographers), with the aid of a mask connected to a recording system (stenomasks) or using a stenotype machine, which has a specialized keyboard adapted for shorthand (stenotypists).

⁷ While the average person types 40 words per minute and transcribers can type up to 75 words per minute on a conventional computer, a stenographer must be able to type a minimum of 200 words per minute, made possible by the use of shorthand.

⁸ Remarks by the Right Honourable Beverley McLachlin, P.C., Chief Justice of Canada in 2015; retrieved from <http://www.scc-csc.ca/court-cour/judges-juges/spe-dis/bm-2015-08-14-eng.aspx>.

given even more weight, as is clear from a 2013 study by the Commissioner of Official Languages:

While access to justice is a concern for all, access to justice in either of Canada's official languages is an additional challenge for the approximately two million Canadians who are members of official language minority communities. The ability to use English or French before superior courts and courts of appeal, in both criminal and civil proceedings, still too often depends on authorities' willingness to adopt measures so that the courts have the capacity to function in both official languages.⁹

In order to guarantee, in certain circumstances, access to the courts in both official languages, much has been made of the ability of the judiciary to operate in both official languages. In the more specific context of criminal law, the language rights provided under the *Criminal Code* have also drawn into the spotlight the ability of Crown prosecutors to work in either official language.¹⁰ This confirms the undeniable reality that the functions of both judges and prosecutors play a vital role in ensuring access to justice in both official languages.

Expanding the concept of the bilingual capacity of the courts

The true import of language rights in legal proceedings in Canada was brought to light by the concept of “institutionally bilingual” courts. In 1999, the Supreme Court of Canada found that, “[t]he courts called upon to deal with criminal matters are ... required to be institutionally bilingual in order to provide for the equal use of the two official languages of Canada.”¹¹ This requirement entails nothing less than “equal access to services of equal quality.”¹² In a passage particularly relevant to this study, the Court stressed that equal access is a substantive right, adding:

... 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.¹³

More recently, the Court of Appeal for Ontario weighed in on the role of court reporters in bilingual proceedings, finding that, “[t]o the extent that the presence of the court reporter is necessary for the proper conduct of the inquiry or the trial, then the judge must ensure that the reporter is bilingual.”¹⁴

⁹ Commissioner of Official Languages. (2013). *Access to Justice in Both Official Languages: Improving the Bilingual Capacity of the Superior Court Judiciary*.

¹⁰ Section 530 of the *Criminal Code*, R.S.C. (1985), c. C-46.

¹¹ *R. v. Beaulac*, [1999] 1RCS 768, p. 770.

¹² *Ibid.*, p. 789.

¹³ *Ibid.*, p. 798.

¹⁴ *R. v. Munkonda*, 2015 ONCA 309, par. 103.

Looking specifically at this broader context of institutional bilingualism in the courts, the Department of Justice Canada commissioned a study in 2009 on official language training needs in the area of justice.¹⁵ The study examined the bilingual ability of several key stakeholders, including police officers, clerks, court reporters, bailiffs/sheriffs, correctional services, probation officers and registry officers. It also proposed a number of strategic solutions aimed at improving the language training offered to these stakeholders.

Although progress has been made, challenges remain in establishing institutionally bilingual courts. In its 2014 report, the Standing Committee on Justice and Human Rights made several recommendations based on its statutory review of Part XVII of the *Criminal Code*, which deals with language rights.¹⁶ The Committee looked at the role of a number of court officials, and made the following recommendations concerning interpreters and transcribers specifically:

Recommendation 2

The Committee recommends that the Federal–Provincial–Territorial Heads of Prosecutions Committee meet with the Department of Justice Canada to discuss issues related to the composition of bilingual juries and court interpretation in both official languages, and to propose possible solutions.

Recommendation 5

The Committee recommends that the federal government look at possible ways, in collaboration with the provinces and territories, to address the shortage of transcribers and interpreters in both official languages. It also recommends that the federal government, in collaboration with the provinces and territories, consider developing national jurilinguistic standards, if needed.¹⁷

Beyond the courts

While access to the courts in both official languages is clearly essential, there is no denying that access to justice in both official languages goes far beyond the courtroom setting.

The Canadian legal system is based on a set of standards and rules, both civil and criminal, many of which provide for recourse other than the courts in the event of disputes. Be it sales or leasing contracts, marriage contracts, wills, copyright agreements or rules on drinking and driving, many aspects of the conduct of Canadians, and sometimes the relationships that bind them, are protected and governed by this legal framework. So access to justice in both official languages necessarily implies access to acts, regulations, legal documents and legal information in both official languages to provide a framework for the Canadian public and allow legal problems to be resolved without court action. This is one reason why access to justice in both official languages cannot be limited to the courts.

¹⁵ PRA Inc. (2009). *Canada-Wide Analysis of Official Language Training Needs in the Area of Justice*. Ottawa.

¹⁶ Standing Committee on Justice and Human Rights. (2014). *Statutory Review of Part XVII of the Criminal Code*. Ottawa.

¹⁷ Ibid, p. 17.

Even when legal problems arise, by far the majority of them can be resolved out of court. A recent survey by the Canadian Forum on Civil Justice found that only 7% of private law problems end up before the courts.¹⁸ The remainder are resolved with the assistance of legal advice (from various law information centres, for example), with the assistance of government or social services, or through information that the public can access directly without assistance.

Our study on legal translation, court interpretation and court reporting therefore covers what ends up before the courts as well as what remains outside the courtroom.

4.0 Training needs

This section specifically addresses training in the three target fields. We begin with an overview of a number of challenges associated with training in each field, which were mentioned in the interviews we conducted or reported in the material we consulted. We go on to describe the training currently offered in each field, and where necessary, propose strategies to be considered by the stakeholders concerned.

4.1 Training in court interpretation

4.1.1 Challenges and issues

The information gathered as part of this study confirms that there are considerable challenges involved in court interpretation in Canada. There is good reason to believe that many courts in Canada are not able to offer satisfactory interpreting services, which necessarily incurs legal risks.

Although these findings apply to all languages used in court interpretation, our study is concerned specifically with interpretation in one or the other of Canada's official languages.

Lack of legal knowledge

In the words of one stakeholder we consulted, "You can't translate what you don't understand." This comment perfectly encapsulates one of the most difficult challenges faced by court interpreters. Interpreters working in a courtroom setting will inevitably be confronted with complex legal proceedings and specialized vocabulary referring to particular concepts of law. Yet the evidence shows that court interpreters have, at best, only the most basic training in law before embarking on their career, and that it is primarily through exposure to the work of a court that they acquire a better understanding of the legal issues raised. Given this fact, it should come as no surprise that a study conducted in 2010 found more than 86,000 decisions in Canada arising from problems with interpretation (all languages combined), including more than 23,000 at the appellate court level.¹⁹

¹⁸ Canadian Forum on Civil Justice. (2016). *Everyday Legal Problems and the Cost of Justice in Canada: Overview Report*. Toronto, p. 9.

¹⁹ Edo, A., Fournier-Ruggles, L., Mattis, C., Matulewicz, K., & Rogers, F. (2010, March 12). *White Paper on Quality Interpretation Services*. York University, Toronto, p. 8.

Another illustration of the problem associated with the complex nature of court proceedings can be found in Ontario. In 2010, the province introduced an exam for all Ontario court interpreters. No less than 40% of the first group to write the exam failed it. Among those who were unsuccessful were many court interpreters who had been practising for years.²⁰

The lawyers consulted for our study expressed concerns in the same vein,²¹ mentioning several occasions where interpreters were clearly out of their depth due to the complexity of the legal notions they were expected to convey in the target language. In these situations, the lawyers either corrected the interpretation themselves as it went along, or chose to limit as much as possible the use of interpretation. Regardless of how the problem was resolved, there is no way the courts in question could be considered institutionally bilingual.

These findings clearly show that the mere fact of being bilingual in no way qualifies someone to serve as a court interpreter. Not only does interpretation (of any type) require specialized training, it also requires strong proficiency in legal terminology. This reality is astutely expressed in a 2014 study by Jeff Staflund:

As a past coordinator of the now defunct court interpreting program at Vancouver Community College aptly put it, “Playing the piano doesn’t make you a concert pianist, and it’s the same with language. Just speaking a language doesn’t make you an interpreter” (Sadava, 2003, n.p.). Court interpreting requires serious training.²²

Consecutive and simultaneous interpretation

Another important challenge facing interpreters is directly linked to the method of interpretation used in court. A number of jurisdictions in Canada have no set rules stipulating circumstances in which consecutive or simultaneous interpretation is to be used. In some jurisdictions, court administrators develop guidelines themselves regarding which method is to be used and when, while in others it is left to the court or the prosecution to decide what method will be used.

The skills required and the organization of work differ for these two types of interpretation, so it is easy to imagine the challenges that arise when there is no clear policy regarding the method to be used in a given situation. Compounding this problem is the fact that the person deciding which method will be used (a judge, for example), often has only a limited understanding of what each method entails.

The lawyers we interviewed gave clear examples of the impact of this problem. When an interpreter is not well-versed in consecutive interpretation, the speaker is frequently interrupted, which breaks his or her train of thought and impedes effective communication. Similarly, when an interpreter not proficient in simultaneous interpretation is compelled to use this method, he or she soon gets overwhelmed and is unable to keep pace and effectively relay the spoken content.

²⁰ Staflund, J. (2014). *Taking Stock: Evaluation New Brunswick’s Current Interpreter Training Program*. Yorkville University, p. 6.

²¹ See also: Standing Committee on Justice and Human Rights. (2014). *Statutory Review of Part XVII of the Criminal Code*. Ottawa

²² Staflund, J. (2014). *Taking Stock: Evaluation New Brunswick’s Current Interpreter Training Program*. Yorkville University, p. 6.

Systemic problems

Interpreters also face a number of systemic challenges. The large majority of interpreters in Canada are freelancers. Very few courts hire full-time interpreters, and normally they are hired to act as “translators-interpreters”. It is almost impossible for freelance interpreters to make court interpretation a full-time occupation, in part because the hours of work are unpredictable and irregular, they are paid only a modest rate and they are often required to travel, usually at their own expense.²³ Added to all this is the fact that court interpreting is far less attractive than conference interpreting, where the hours are more predictable and regular and the pay is better. So there is a tendency for interpreters, especially those who want a full-time career, to gravitate to conference interpreting.

In view of these uncertain working conditions, it should come as no surprise that there is also a problem finding new recruits in court interpretation.²⁴ Several of the stakeholders we consulted pointed out that, on average, court interpreters tend to be older and that there appear to be few junior interpreters stepping in to replace them.

Another systemic problem stems from the very nature of court proceedings. Interpretation services are most often used during lower court proceedings, which are by far the most unpredictable. Matters may be adjourned for any number of reasons, last-minute changes may be made to defence strategy for witness testimony, and applications may be made that completely disrupt a case calendar. These conditions create major challenges, not only for court interpreters but also for court administrators who have to plan interpretation services.

Operational framework

Lastly, the document review and interviews conducted as part of this study pointed to other problematic factors associated with the operational framework in which interpreters work:

- *Inadequate equipment*: Operational requirements for consecutive interpretation are minimal: the interpreter needs adequate access and work space. Simultaneous translation requires at least the minimum basic equipment necessary to allow the interpreter to concentrate and do his or her work without disrupting court proceedings. At present, many courts in the country are not able to meet this minimum requirement, meaning that interpreters have to work under conditions that impede their ability to provide quality service.
- *Inadequate work organization*: It is accepted practice in the field of interpretation (consistently applied in conference interpretation) for more than one interpreter to be assigned to an activity so that each can take regular breaks, which are essential to maintaining the quality of their work. However, in many court proceedings in Canada, only one interpreter is assigned to a case, which inevitably compromises the quality of the work.

²³ Travel was an issue raised by the Standing Committee.

²⁴ As regards succession, see also: Edoo, A., Fournier-Ruggles, L., Mattis, C., Matulewicz, K., & Rogers, F. (2010, March 12). *White Paper on Quality Interpretation Services*. York University, Toronto. As regards remuneration, see Critical Link International. (n.d.). Court interpreting in Italy: A non-existent profession, at <http://www.criticallink.org/cli-blog/2015/4/15/court-interpreting-in-italy-a-non-existent-profession>.

- *Insufficient information on the cases being heard:* The consultations conducted as part of this study indicated that, too often, court interpreters are given no prior information on matters to which they are assigned. This makes it very difficult for them to properly prepare for the work, which includes consulting tools and resources that are available in certain areas of law.

4.1.2 Training currently available

This subsection deals with basic training and on-the-job training for court interpreters. It also addresses the issue of court interpreter certification and accreditation, which is directly linked to the skills they are expected to have.

Basic training

One clear observation can be made with respect to basic training in court interpretation in Canada: there are no postsecondary programs in the country that allow interested individuals to specialize in court interpretation.

Until 2012, Vancouver Community College (VCC) offered a one-year certificate program in court interpreting. The program included courses on substantive law and procedural rules, legal terminology, methods of interpretation (consecutive and simultaneous), as well as ethics.²⁵ VCC has offered no equivalent program since.

In the absence of specialized training, the only program that includes a component on court interpreting is the Master of Conference Interpreting offered at York University's Glendon College campus.²⁶ As its title indicates, however, this program is designed first and foremost for conference interpreters. To give students greater versatility and broaden their horizons, three fields are covered in the first year: conference interpreting, medical interpreting and court interpreting. It is only in this context that certain concepts specific to court interpretation are covered.²⁷ The second year of the program focuses solely on conference interpreting.

Interpreter certification

Some jurisdictions, including New Brunswick, Quebec, Ontario, British Columbia and Nunavut, have introduced accreditation processes allowing for the certification of interpreters who work in their courts. The Canadian Translators, Terminologists and Interpreters Council (CTTIC) and its members collaborate with some of these governments on the implementation of court interpreter accreditation processes. These processes are intended to recognize competencies already acquired by interpreters, and as such do not offer structured training leading systematically to certification.

One notable exception is New Brunswick. Court interpreters hired by the province are screened prior to recruitment based on a set of basic criteria. Successful candidates then undergo training

²⁵ Information from *The Language Bureau*, consulted at: <http://thelanguagebureau.com/certification-guide/college-level-certificates>.

²⁶ A program description is available at: www.glendon.yorku.ca/interpretation.

²⁷ Students who successfully complete the first year of the program and do not wish to pursue a Master's degree receive a Graduate Diploma in General Interpreting.

lasting close to a year, allowing them to gain familiarity with the province's court system and strengthen their interpreting skills and their knowledge of legal terminology. During this training period, interpreters are also assigned to cases with the support of a mentor. The training process concludes with written and oral exams, leading to provincially recognized certification.²⁸

Tools for continuing professional development

Once they are on the job, court interpreters have access to certain tools to assist them. According to the interpreters we consulted for this study, particularly useful in this regard are the federal government's terminology and linguistic data bank, TERMIUM Plus (which incorporates the bulk of the "*Juridictionnaire*" produced by the CTTJ, along with the results of the project being coordinated by the CTTJ to standardize French common law vocabulary), as well as the mini-glossaries produced by the Centre for legal French resources (CRFJ) at Université de Saint-Boniface.

As for continuing professional development, here again there are very few activities that specifically target court interpretation. The various professional interpreter associations organize conferences and offer online training and workshops, but these activities are general in nature and often pertain to conference interpreting.

One activity mentioned by a number of individuals we consulted was the training offered by the Canadian centre for legal French (CCFJ), which has recently made its workshops available to court interpreters. The activity in question lasted about five days and combined exercises and mock trials. Several court interpreters we spoke to had been able to hone their skills in this workshop.

4.1.3 Proposed strategies

When considering adequate training for court interpreters, the broader context of the organization and conditions related to their work must be taken into account. Our study made the following findings in this regard:

- *Work environment:* To provide court interpreters with adequate training, it will first be necessary to determine what is expected of them. Consecutive and simultaneous interpretation are two different techniques, each requiring its own skill set. So the type of interpretation required and the circumstances in which it will be used must be known beforehand, which is often not the case in many courts in Canada. Simultaneous interpretation requires certain basic equipment, which is not always available in many courts in Canada. Lastly, according to accepted standards for the profession, quality interpretation requires that interpreters work as a team, which is not standard practice in courts across Canada. Although these factors are outside the realm of training, they are essential considerations for the stakeholders concerned when developing adequate training strategies.

²⁸ For a description of the process, see Staflund, J. (2014). *Taking Stock: Evaluating New Brunswick's Current Interpreter Training Program*. Yorkville University, p. 6.

- *Working conditions:* Again, this is not strictly speaking a training issue, but it is unrealistic to think that people interested in a career in court interpretation will be prepared to invest in their basic and ongoing training if they cannot expect commensurate remuneration. This is a systemic barrier to court interpreter training that must be addressed by the appropriate authorities.
- *Practical or experiential training:* Another systemic barrier to the development of adequate court interpreter training is the lack of awareness of justice system practitioners, who are in a position to make a direct contribution to court interpreter training (particularly practical training). Moot courts and other applied training activities for lawyers or judges were cited by our interviewees as examples of activities that could incorporate a court interpretation component, which would not only help raise the awareness of practitioners but would also provide practical training opportunities for court interpreters.
- *Expansion of basic training:* To ensure the delivery of court interpretation services of consistent quality across Canada, it is imperative that the basic training currently available be expanded. As noted earlier, there is still no program in Canada specialized in court interpretation. To accommodate both the nature of the interpreter's work and the need to make the program accessible, a combination of distance and classroom training has been proposed (incorporating a practical or experiential component), an approach that is being used in other countries.²⁹
- *Continuing professional development:* Court interpreters have access to certain professional development activities aimed at interpreters in general and covering topics such as ethics or the integration of new technology. However, what would be of most use to court interpreters would be activities allowing them to hone their skills and practise the different types of interpretation in a simulated courtroom setting.

4.2 Training in legal translation

4.2.1 Challenges and issues

There is so much diversity in the field of legal translation that it is difficult to make observations that apply to all the different scenarios. But one fact is clear: succession in certain sectors of legal translation is very uncertain, while demand is increasingly pressing. Without a training strategy to support individuals interested in working in this field, we could see a decline in the quality of legal translation offered in Canada.

Diversity of legal translation

Subsection 3.1 above describes the main scenarios in which legal translation is required. Among them are legislative drafting, the publication of judgments in both official languages, drafting of legal documents (inside or outside the judicial framework), and the publication of legal

²⁹ Among those using this approach to train court interpreters is the University of Hamburg in Germany. See European Legal Interpreters and Translators Association at: <http://eulita.eu/training-interpreters-and-translators-courts-and-public-authorities>.

information. Given this diversity, it is not surprising to find that the challenges vary greatly between these different components of legal translation.

The information we gathered indicates that legislative translation is generally of very high quality. Performing this highly specialized work are either full-time translators (as is the case on government legislative teams) or specialist teams (like those in jurilinguistic centres).

When it comes to the translation of court judgments and legal documents or information, the evidence shows that the service quality varies considerably:

- The quality of the translation of Supreme Court rulings, which is done by the Court's own team of jurilinguists, is generally perceived as very high. However, the quality of translation in other courts is very inconsistent, due to the fact that the work is not always assigned to translation firms or freelancers specializing in legal translation.
- In some courts, “translators-interpreters” or bilingual court staff are called upon to translate decisions, which are usually fairly brief. Clearly, while some courts have the necessary resources to offer this service, others do not.
- As for the translation of legal documents or information, the market is largely unregulated and the quality of translation varies depending on who is hired to do the work. Basically, anyone can adopt the title “legal translator”. While certain professional associations do certify translators, it is up to the users of the service to determine how useful that certification is when choosing a legal translator. Many such certification processes do not target legal translation specifically. Where the certification applies to general translation, its relevance and utility for legal translation must be kept in perspective.

The challenge of succession

In a recently published article, Christian Després, Chief Jurilinguist for the Supreme Court of Canada, notes that even though “[translation] a good many stakeholders in the field of legal translation – translators, terminologists, jurilinguists and teachers – are still working, their much anticipated exodus toward retirement is well under way.”³⁰ He also makes the point that, although Canada's expertise in legal translation is still highly regarded, the acquired knowledge and experience on which that expertise is based could very well be eroded:

[Translation] For the time being, legal translation may appear to be exempt from major problems. But the attrition rate of seasoned translators, the lack of specialized or ongoing training in legal translation and the lack of coaching are threatening the broad experience base acquired to date. The problems many employers and suppliers of work in legal translation are having trying to recruit staff or providers with sufficient training are the first sign that this threat exists.³¹

³⁰ Després, C. (2015). *L'État des lieux en traduction juridique – regard d'un praticien*, with the collaboration of Karine McLaren, [s.l.], [s.n.], p.1.

³¹ Ibid, p. 15.

Our interviewees said much the same thing. Legal translation experts we consulted expressed serious concerns about the lack of junior translators entering the field.

Growing demand

The issue of succession is particularly important in view of the growing demand for legal translation in certain key sectors. Our interviewees confirmed that there has been an increase in the number of legislative documents translated in Canada over the past 30 years (particularly in Ontario and Saskatchewan). Also, efforts to make justice system users more aware of their rights to access to justice in both official languages have led to an increase in the number of proceedings conducted in French or in both official languages, resulting in a greater number of decisions to be translated.

Revision and coaching

Another challenge that was mentioned repeatedly in the interviews we conducted concerns revision and coaching for legal translators. With their field being so specialized, legal translators rely largely on coaching and feedback to perfect their skills. Christian Després agrees, noting in his recent article:

[Translation] [F]or junior legal translators, the vast supply of readily available terminological and jurilinguistic resources is not in itself sufficient and cannot fully replace the regular revision and feedback from which many of their predecessors benefited. The objective should therefore be to make revision and feedback available to as many legal translators as possible.³²

While some work environments do offer these supports, a large number of legal translators work totally independently as freelancers, making any form of revision/coaching and feedback virtually impossible.

4.2.2 Training currently available

Although legal translators in Canada have access to many useful resources and a number of professional development activities (mostly in the Quebec market), one fundamental fact remains: there are currently no programs in Canada offering basic training in legal translation.

Basic training

Both our document review and our interviews indicate that the basic training of practising legal translators varies greatly. It is not unusual to find legal translators who have basic training in general translation or linguistics, with no specialized legal component. It is on the job that many translators have acquired a sufficient understanding of concepts of law to be able to do legal translation. As a number of stakeholders pointed out, it may take several years for these translators to acquire the necessary understanding of law.

³² Ibid.

The only program in Canada that was truly specialized in legal translation was the University of Ottawa's Master of Legal Translation, which was discontinued in 2014.³³ A number of existing translation programs, including those at Université de Moncton, Concordia University, the University of Ottawa and Université de Saint-Boniface, offer a few elective courses that explore concepts pertinent to legal translation, but none of these programs provide comprehensive basic training in legal translation.

Tools and resources

So although basic training is non-existent, legal translators do have access to many valuable jurilinguistic tools. Among the resources mentioned by the people we consulted for this study are those of the CTTJ at Université de Moncton (Juriterm and the *Juridictionnaire* in particular), those of the Centre for legal French resources at Université de Saint-Boniface (mini-glossaries and linguistic and legal capsules in particular), TERMIUM, the *Guide fédéral de jurilinguistique législative française*, the dictionary *La common law de A à Z*, and CANLII.

It should be noted that all these tools are based to a large extent on the major initiative to standardize French common law vocabulary, an ongoing project that is essential to the establishment of an accurate and comprehensive French common law vocabulary.

Continuing professional development

General translators in Canada have access to a variety of training activities provided by their respective professional associations or by organizations like the Translation Bureau. However, these activities do not target legal translation.

Our consultations indicated there are only a few professional development activities covering legal translation specifically. Among these are the online introductory workshop "Initiation à la traduction juridique" offered by the Ordre des traducteurs, terminologues et interprètes agréés du Québec,³⁴ and classroom training offered by the firm Magistrad, which includes basic training as well as sector-specific activities in areas like securities.³⁵ Most of these activities target translators working in Quebec, not the common law provinces. Also worthy of mention is the Summer Institute of Jurilinguistics held annually by McGill University's Paul-André Crépeau Centre, a day dedicated to the sharing of knowledge between language and law professionals.³⁶

The stakeholders consulted reiterated the fact that many legal translators work as freelancers, which makes it more difficult for them to take part in training activities. The costs associated with this training, particularly classroom-based activities, are a significant barrier.

³³ Information from Cliquezjustice.ca, at: <http://www.cliquezjustice.ca/carrieres-en-justice/traducteur-juridique>.

³⁴ Information consulted on the Ordre des traducteurs, terminologues et interprètes agréés du Québec website at: <http://ottiaq.org/?atelier=formatheque-ottiaq-initiation-a-la-traduction-juridique>.

³⁵ Information consulted on the Magistrad website at: <http://www.magistrad.com/cours.php>.

³⁶ Information consulted on the Paul-André Crépeau Centre website at: <http://www.mcgill.ca/centre-crepeau/activities>.

4.2.3 Proposed strategies

Legal translation has always been a mainstay in the great adventure that is legislative and judicial bilingualism in Canada. In common law specifically, there have been major achievements in the standardization of common law vocabulary in French, making it possible to develop numerous high-quality jurilinguistic tools. These standardization efforts will inevitably continue, given that common law itself is constantly evolving. By its very nature, the law shapes the evolution of the society it seeks to govern, so the necessary vocabulary must be in place for the concepts conveyed by the law to be adequately expressed in English and French.

The most significant gap remaining is in basic training for legal translators. Given Canada's legal and judicial bilingualism, it is astonishing (to say the least) that there is still no basic training program available for anyone interested in a career as a legal translator. This is an issue of paramount importance. The experience of the Master program offered by the University of Ottawa until 2014 has shed light on a number of the challenges involved. One challenge stems from the fact that legal translation is a blend of two traditionally distinct disciplines (translation and law), so training requires an approach that can balance the teaching strategies and processes proper to each of these disciplines, including student selection and program development and delivery.

The question is not *whether* a basic training program can be offered in Canada. It would be cavalier to assume that the law in Canada can operate without the assurance of a pool of new legal translators. So the question is *how* this training can be offered.

At the time of writing, both Université de Moncton and the University of Ottawa were offering full common law programs in French.³⁷ These two universities, as well as Université de Saint-Boniface and Concordia University, also offer translation programs that include law-related components. Building on this experience and all the options made possible by technology, the challenge now is to make available in Canada a program that provides genuine basic training in legal translation.

Efforts in this regard can also be expected to expand the ongoing training options available to legal translators. Our study found that the priority for ongoing training is to provide legal translators with the opportunity to apply their knowledge and receive feedback on their work. This implies practical, interactive training that, through technology, can now be made accessible online. Without dismissing the possibility of classroom training, it is apparent that this delivery mode alone will not meet the needs of all legal translators, so it will be necessary to explore the use of new technology.

³⁷ Note that the Faculty of Law at Université de Montréal offers a JD in North American common law (*Juris Doctor – Common Law nord-américaine*), and the Faculty of Law at Université de Sherbrooke offers a JD in common law and transnational law (*Juris Doctor en common law et droit transnational*). Both of these graduate programs explore common law concepts in French.

4.3 Training in court reporting

4.3.1 Challenges and issues

Producing court transcripts in French (outside Quebec) presents a number of challenges, both technological and operational. Complementary training for court reporters and court transcribers would appear to be particularly important in ensuring the production of quality court transcripts in both official languages.

Technological challenges

It is clear that the advent of courtroom recording systems and the capability of producing transcripts from these recordings have significantly reduced the costs historically associated with hiring in-court reporters. There is every reason to believe that these new developments have also facilitated access to individuals capable of transcribing proceedings in French, by making it possible for them to work remotely once they have received the audio files.

However, our study found that this new approach is not without its pitfalls. A number of stakeholders consulted (including lawyers and court reporters) pointed out that many courthouses in Canada do not have the necessary equipment to record the entire spoken content of a court proceeding, including the court interpreter's rendition in a bilingual proceeding. Without high-quality, complete recordings and the notes required to support transcription, it is virtually impossible to produce transcripts that can equal those produced by an in-court reporter.

So our findings indicate that while the current system may have reduced costs, it requires highly specialized and complementary skills on the part of those supervising the recording and those transcribing the content to produce an official record of the court proceedings. For bilingual proceedings or proceedings conducted in a minority language, it becomes all the more important that these two players be able to work effectively in both official languages.

Operational challenges

In the current context, where almost all courts use a digital system to record proceedings³⁸ and the recordings are then transcribed in accordance with the applicable rules or the parties' requirements, two conditions must be met for the production of acceptable court transcripts in French:

- *In-court work*: The person responsible for recording the proceedings (the court reporter) must be able to supervise the recording process and make appropriate explanatory notes, and must therefore understand proceedings being conducted in French. As mentioned in subsection 3.2 above, for bilingual proceedings or proceedings conducted in French, this person must be bilingual.
- *Work outside the courtroom*: Using the recording and the accompanying explanatory notes, the transcriber must be able to produce a quality transcript in French (or in both

³⁸

While this study did not survey all courts in Canada, it did find that courts in the Northwest Territories still use reporters who work with stenotype machines.

official languages, where necessary). Consequently, this person must also be fully proficient in French.

Our consultations revealed a number of problems at both these levels. First, many court administrators have difficulty recruiting and retaining bilingual court reporters. Often, these are part-time jobs with irregular hours and relatively modest pay. As a result, it seems that the function of court reporter is perceived, especially by bilingual individuals, as transitory employment rather than a genuine long-term career option.

As regards transcription, there are a number of systemic challenges. Since the majority of transcribers are freelancers, they are paid on the basis of the number of words transcribed or pages produced. However, transcription in French is perceived to be more complex (due to accents, grammar rules and other considerations) and therefore more time-consuming, a reality that is not reflected in the pay. Our consultations revealed that, particularly outside Quebec, transcribers will avoid working on court proceedings that were conducted in French (or in both official languages). We also heard of occasions where transcribers working on proceedings conducted in French were not sufficiently proficient in French, resulting in transcripts of poor quality.

Some of the transcribers we consulted also pointed out that witnesses testifying in court sometimes have regional accents or use vocabulary specific to a given francophone community or a mix of French and English, making it all the more difficult to produce an accurate, quality transcript.

Lastly, some of the lawyers we consulted mentioned that there can be significant delays in obtaining transcripts of proceedings held in French, which shows how hard it can be for certain courts in Canada to find transcribers capable of working in French.

4.3.2 Training currently available

Since digital recording of judicial proceedings has largely replaced traditional stenographic reporting, this subsection focuses on the positions of both court reporters and court transcribers.

Court reporters

Court reporters are employees of the court and the specific framework of their work varies in different provinces and territories. According to the information we gathered, until now, employers generally did not require that candidates have specialized training; instead, they looked for individuals with certain skills who, once hired, were trained on the job. Note, however, that beginning in fall 2016-2017, Collège Boréal will be offering an online two-phase certificate program (*Pratique d'appui aux tribunaux*) to train court support services workers, including bilingual clerks and reporters.³⁹ This is the first such program to be offered in French outside Quebec.

³⁹ Collège Boréal. (2016). *Mon avenir commence avec mon choix de programme!*, p. 38.

Court transcribers

Because the majority of transcribers are freelancers, provincial and territorial governments have established processes that allow for the certification of individuals deemed qualified to prepare transcripts in accordance with the relevant practices and rules.

Accordingly, for the past few years, a number of colleges, including Algonquin College and Durham College (both located in Ontario), have been offering training in English that clarifies the operational and regulatory framework surrounding the production and certification of court transcripts. This training focuses on the rules applicable to the production of court transcripts, not the language in which the transcripts are produced. As for Collège Boréal's new certificate program, it will address certain aspects of court transcription.⁴⁰

4.3.3 Proposed strategies

From the data collected as part of this study, we can conclude that the preparation of court transcripts in French is problematic and can cause delays. We found the problems to be logistic and operational in nature. The transition to systems in which court proceedings are digitally recorded before being transcribed is still partly uncharted territory, especially when it comes to proceedings conducted in a minority language or in both official languages.

Given this context, training for court reporters and transcribers will require concerted action, taking into account the realities specific to each of these functions. For example, knowing that the large majority of court transcribers are freelancers, it would make sense to concentrate on distance training options using new technology. One of the main considerations will be to train transcribers able to produce transcripts as effectively in French as in English, so as to eliminate any resistance to having transcripts produced in French. Similarly, training for court reporters must prepare them to work effectively in French or in a bilingual context, so as to provide the necessary support for quality transcripts in French.

4.4 Coordination of training efforts

This report is aimed at stakeholders in three fields, each of which involves functions of the utmost importance in ensuring true access to justice in both official languages. Given the limited number of practitioners and educators (current and future) in these fields, it will be imperative for stakeholders to coordinate their efforts if progress is to be made in the provision of both basic and ongoing training.

It is up to the members of the RNFJ to work together on coordinating training efforts in each of the three target fields. The RNFJ provides an ideal platform for direct consultation between the stakeholders concerned on the planning and coordination of activities. The RNFJ is also well-positioned to engage other stakeholders who could have a complementary role to play in training in the three fields.

Based on experience acquired to date and the findings of this study, it is clear that the greatest challenge faced by the stakeholders who provide training in the three target fields is the long-

⁴⁰ Ibid.

term viability of their activities and programs. Key considerations for training initiatives are promotion and accessibility, use of technology, effective allocation of roles and responsibilities, and economies of scale to ensure efficiency.

It is important to bear in mind that the three target fields contribute directly to the administration of justice, so public investment is essential to ensure that practitioners in these fields receive adequate training. Given the specific role of these fields in access to justice, the training initiatives required cannot be weighed against the same cost-efficiency standards as training initiatives aimed at a wider clientele base. The administration of justice in both official languages inevitably incurs certain supplementary costs, including the costs of the training initiatives described in this report. Hence the importance of ongoing support from government authorities.

This report also raises certain substantive issues that go beyond the scope of the RNFJ. Government authorities and court administrators will have a central role to play in supporting training initiatives in the three target sectors. The report identifies a number of operational considerations (hiring processes, work organization and procedures, equipment, etc.), which are outside the realm of training strictly speaking but which have a direct impact on the ability of justice and other stakeholders to operate effectively in both official languages. Consequently, the participation of all these stakeholders will be a key factor in ensuring the success of new training initiatives put forward by the RNFJ members.

Our final comment relates to the following recommendation, made by the Standing Committee on Justice and Human Rights in its April 2014 report:

The Committee recommends that the federal government look at possible ways, in collaboration with the provinces and territories, to address the shortage of transcribers and interpreters in both official languages. It also recommends that the federal government, in collaboration with the provinces and territories, consider developing national jurilinguistic standards, if needed.⁴¹

The findings of our study do not confirm the relevance of developing standards for training in court transcription and court interpretation at this point in time. All the evidence indicates that the more pressing need is the development of basic training and, in many cases, ongoing training. Either such training does not yet exist, or it is just emerging and is still a work in progress.

Given these findings, it would seem more appropriate to start by addressing the systemic barriers described in this report and establishing a much more solid base of training in these two fields, before setting about developing national jurilinguistic standards. However, recognizing the benefits that could flow from such standards, we recommend that this issue be re-examined in two or three years in the light of progress made in training in the two fields in question. To this end, it will be necessary to arrive at a common understanding of what is meant by the expression “national jurilinguistic standards”.

⁴¹ Standing Committee on Justice and Human Rights. (2014). *Statutory Review of Part XVII of the Criminal Code*, Ottawa, Recommendation 5.

5.0 Conclusions

This report provides an opportunity for the stakeholders concerned to tackle long-standing problems that impede access to justice in both official languages in three key fields. The report proposes strategies that reflect the needs expressed by the stakeholders concerned as well as a number of broader contextual factors that must be taken into account in future initiatives.

The proposed strategies involve the engagement of several academic, professional and institutional stakeholders. It will be imperative for them to coordinate their efforts, especially when considering the relatively limited pool of practitioners in court interpretation and legal translation in common law in French, who are geographically dispersed across the country. It is now up to the stakeholders to put the proposed strategies into action.

Appendix A – Analytical Framework

Table 1: Analytical Framework		
Research issues	Main indicators	Data sources
Context		
1) What role do legal translation, court interpretation and court transcription play in supporting access to justice in both official languages?	<ul style="list-style-type: none"> – Changing roles of the three target fields – Nature and scope of the language obligations relating to the three target fields 	<ul style="list-style-type: none"> – Document review – Interviews
Legal translation		
2) What are the main challenges facing legal translation in the current context?	<ul style="list-style-type: none"> – Characteristics of legal translation service providers – Trends in demand for legal translation services – Perceptions regarding the quality of legal translation – Degree of standardization of jurilinguistic vocabulary 	<ul style="list-style-type: none"> – Document review – Interviews
3) To what extent are training needs in legal translation being met (postsecondary education, on-the-job training and continuing professional development)?	<ul style="list-style-type: none"> – Level of access to existing educational tools, if any – Main stakeholders involved in legal translation training – Accessibility of legal translation training 	<ul style="list-style-type: none"> – Document review – Interviews
4) What strategies should be adopted to ensure the provision and maintenance of an adequate training framework for legal translation (postsecondary education, on-the-job training and continuing professional development)?	<ul style="list-style-type: none"> – Priority issues in training for legal translation – Allocation of roles and responsibilities in postsecondary education, on-the-job training and continuing professional development related to legal translation – Results expected by stakeholders 	<ul style="list-style-type: none"> – Document review – Interviews
Court interpretation		
5) What are the main challenges facing court interpretation in the current context?	<ul style="list-style-type: none"> – Characteristics of court interpretation service providers 	<ul style="list-style-type: none"> – Document review – Interviews

	<ul style="list-style-type: none"> – Trends in demand for court interpretation services – Perceptions regarding the quality of court interpretation 	
6) To what extent are training needs in court interpretation being met (postsecondary education, on-the-job training and continuing professional development)?	<ul style="list-style-type: none"> – Level of access to existing educational tools, if any – Main stakeholders involved in training related to court interpretation – Accessibility of training related to court interpretation 	<ul style="list-style-type: none"> – Document review – Interviews
7) What strategies should be adopted to ensure the provision and maintenance of an adequate training framework for court interpretation (postsecondary education, on-the-job training and continuing professional development)?	<ul style="list-style-type: none"> – Priority issues in training related to court interpretation – Allocation of roles and responsibilities in postsecondary education, on-the-job training and continuing professional development related to court interpretation – Results expected by stakeholders 	<ul style="list-style-type: none"> – Document review – Interviews
Court transcription		
8) What are the main challenges facing court transcription in the current context?	<ul style="list-style-type: none"> – Characteristics of court transcription service providers – Trends in demand for court transcription services – Perceptions regarding the quality of court transcription 	<ul style="list-style-type: none"> – Document review – Interviews
9) To what extent are training needs in court transcription being met (postsecondary education, on-the-job training and continuing professional development)?	<ul style="list-style-type: none"> – Level of access to existing educational tools, if any – Main stakeholders involved in training related to court transcription – Accessibility of training related to court transcription 	<ul style="list-style-type: none"> – Document review – Interviews

<p>10) What strategies should be adopted to ensure the provision and maintenance of an adequate training framework for court transcription (postsecondary education, on-the-job training and continuing professional development)?</p>	<ul style="list-style-type: none"> – Priority issues in training related to court transcription – Allocation of roles and responsibilities in postsecondary education, on-the-job training and continuing professional development related to court transcription – Results expected by stakeholders 	<ul style="list-style-type: none"> – Document review – Interviews
Coordination of training efforts		
<p>11) How can training initiatives in the three target areas be coordinated for maximum effectiveness and efficiency?</p>	<ul style="list-style-type: none"> – Features of existing coordination mechanisms – Strategies to maximize coordination of efforts 	<ul style="list-style-type: none"> – Document review – Interviews

Appendix B – Bibliography

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Appendix C – Interview Guides

Sample interview guides

[Since most of the individuals interviewed for this study were Francophones, the interview guides were not prepared in English. The following two samples have been adapted to give an indication of the questions asked of the different stakeholder groups interviewed.]

Interview guide for representatives of professional associations

Université de Saint-Boniface, in collaboration with the National network for justice training (RNFJ), is conducting a study on gaps in training (postsecondary education, on-the-job training and continuing professional development) in court interpretation, court transcription and legal translation in common law provinces. The study is intended to outline training currently available in the three target fields and propose strategies for new training initiatives to enhance the contribution of practitioners in these fields to access to justice in both official languages.

Université de Saint-Boniface hired PRA Inc., a research and analysis firm, to assist with this study. Data is being gathered in part through interviews with stakeholders and service providers in the three target fields. With your permission, this interview will be recorded so details can be condensed in the final report. Only PRA personnel will have access to these recordings, and the recordings will be destroyed on completion of the project. Your answers will be kept confidential and your name will not be given, directly or indirectly. The information provided will be used only for the purposes of this study and relevant privacy laws will apply.

If you do not feel qualified to reply to any of the questions, please notify the interviewer.

Introduction

1. Briefly describe your role within your association.

Services offered

2. Does your association currently offer any training, tools or other resources for your members? If so, please describe them.
3. Has your association offered training for its members in the past? If so, what obstacles did you encounter?

Demand for services

4. How would you describe the current demand for your members' services? Have you noticed that demand for these services has changed in recent years?
5. In your opinion, are your members able to meet the demand? Are there enough service providers in this field?
6. Do your members have the necessary skills to meet demand for specialized services in their field? How does your association verify that they have these skills?

7. Do your members face challenges meeting the demand for specialized services? If so, please describe them.

Training needs

On-the-job training and ongoing training or professional development

8. To your knowledge, are there any courses, workshops or professional development activities available for your members? If so, who provides them, what topics do they cover, and how often are they offered?
9. To what extent would the creation of new training programs (for example, in postsecondary or continuing education) in your members' specialty meet their professional development needs?
10. What would you consider to be more promising professional training options, if any, that would adequately support practitioners in your field?

Conclusion

11. Do you have any comments or questions regarding this study?

Thank you for your collaboration.

Interview guide for court interpreters

Université de Saint-Boniface, in collaboration with the National network for justice training (RNFJ), is conducting a study on gaps in training (postsecondary education, on-the-job training and continuing professional development) in court interpretation, court transcription and legal translation in common law provinces. The study is intended to outline training currently available in the three target fields and propose strategies for new training initiatives to enhance the contribution of practitioners in these fields to access to justice in both official languages.

Université de Saint-Boniface hired PRA Inc., a research and analysis firm, to assist with this study. Data is being gathered in part through interviews with stakeholders and service providers in the three target fields. With your permission, this interview will be recorded so details can be condensed in the final report. Only PRA personnel will have access to these recordings, and the recordings will be destroyed on completion of the project. Your answers will be kept confidential and your name will not be given, directly or indirectly. The information provided will be used only for the purposes of this study and relevant privacy laws will apply.

If you do not feel qualified to reply to any of the questions, please notify the interviewer.

Introduction

1. Please describe your current functions. How many years have you worked in court interpretation? In which provinces or territories have you worked? What geographical area do you cover? In what language(s) do you offer court interpretation?

Background

2. How often and under what circumstances are your English and French court interpretation services requested? When you are hired, does the work require specific preparation?
3. Where applicable and taking into account the different areas of law, what tools do you use to prepare for your work or to familiarize yourself with the vocabulary required (including French common law vocabulary)?

Main challenges

4. Based on your experience, describe how demand for your court interpretation services in the context of French common law has changed in recent years. In your reply, please take into account the nature, frequency and complexity of the requests for your services.
5. What are the main challenges, if any, you face in your current work as a court interpreter? How do these challenges affect your work or the work of your colleagues?

6. Thinking specifically of training and jurilinguistic tools, do you have needs in your current work that are not being met, in particular with regard to your services in French? If so, how do you think these needs could be met?

Training needs

Postsecondary training

At present, there is very little training for individuals interested in a career in court interpretation. Although some postsecondary institutions offer a few relevant courses, there is no postsecondary program specializing in court interpretation.

7. Given this fact, please describe the postsecondary courses, programs or training you completed that prepared you for a career in court interpretation.
8. In your opinion, what impact (current or future) does the lack of specialized court interpreter training in court interpretation have in the common law provinces?
9. To what extent would the creation of a specialized postsecondary program in court interpretation meet your needs or those of the next generation of court interpreters?
10. What would you consider to be more promising postsecondary training options, if any, to properly prepare individuals to work as court interpreters in the common law provinces?

On-the-job training and ongoing training or professional development

11. Bearing in mind your current functions, what types of professional or ongoing training activities, courses or workshops would interest you? Do you know of any organizations that offer these types of training? If so, what fields does the training cover and how often is it offered?
12. How satisfied are you with the current supply of on-the-job training and professional development? In your reply, please take into account the following:
 - a. The nature of the training activities
 - b. The frequency with which they are offered
 - c. Their cost
 - d. Their accessibility (webinars, convenience of location, etc.)
13. What impact (current or future) does the current supply of professional or ongoing training in court interpretation have in the common law provinces?
14. To what extent would the creation of workshops or seminars in court interpretation be able to meet your needs for professional or ongoing training? Do you have any suggestions or comments regarding the workshop topics that would be of interest to you?

15. What would you consider to be more promising professional or ongoing training options, if any, to adequately support court interpreters working in the common law provinces?

Certification

Although there is no national certification program for court interpreters, some provinces, like Ontario and New Brunswick, have established their own certification processes. Individuals wishing to work as court interpreters in these provinces must first pass an exam. These processes allow the provinces in question to maintain a certain standard of court interpretation.

16. Given the context in which court interpretation in common law is currently evolving, do you think it would be useful to consider establishing one or more certification program(s) for court interpreters?

Conclusion

17. Do you have any comments or questions regarding this study?

Thank you for your collaboration.