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RESEARCH AND INFORMATION HUB

Barriers and enablers to accessing criminal justice in French in British Columbia

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Note on inclusive writing. The English version of this document uses gender neutral language. This choice was made in response to methodological and ethical considerations and in order to protect the anonymity of participants whose accounts are reported in Section 3. Within this context, research ethics rules take precedence, and the choice was made to adhere to this convention throughout the document to ensure consistency and preserve its readability.

Executive summary

A 2002 study categorized British Columbia as one of the provinces where "work ha[d] yet to begin"[1] with regard to its ability to provide legal services in French. More than 20 years later, it appears that British Columbia has made significant strides to this effect[2].

While the progress made may stem from landmark cases involving language rights in the region (e.g., *R. v. Beaulac*[3], *Bessette v. British Columbia*[4], and *R. v. Tayo Tompouba*[5]), this study instead sheds light on the prominent role played by institutions and organizations, and the sustained shared commitment to principles of access to justice and the vitality of official languages in British Columbia. This has been the catalyst for progress and has resulted in the implementation of structural mechanisms, and, ultimately, the development of an actual capacity to provide legal services in French. While barriers persist, British Columbia now has the tangible means to overcome them. This study addresses all these elements, summarized in the figure on the next page.

Ultimately, the study shows that British Columbia represents both a case where real progress has been made and a system that is still undergoing a transition. It also reveals that a system's actual capacity to provide legal services in a minority Francophone setting is not the responsibility of a single entity but that of an entire ecosystem.

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[1] Groupe PGF. (2002). *Environmental Scan: Access to Justice in Both Official Languages*. Justice Canada, p. 4 [PGF].
[2] This is one of the findings of an ongoing study (by the team that authored this report), which aims to replicate the 2002 study to assess the current state of affairs twenty years later, as well as the progress made (2002–2025) [Girard]. The results will be published in the fall of 2026.
[3] *R, v. Beaulac*, 1999 1 SCR 768 [*Beaulac*].
[4] *Bessette v. Colombie-Britannique (Attorney General)*, 2019 SCC 31 [*Bessette*].
[5] *R. v. Tayo Tompouba*, 2024 SCC 16 [*Tompouba*].

STARTING POINT

Leadership and shared commitment

It all begins with a demonstration of leadership on the part of institutions and civil society, along with a shared commitment based on broader principles: access to justice, reciprocity, substantive equality, respect for and vitality of official languages, etc.

STRUCTURAL MECHANISMS

- Creation of an office or team of dedicated Crown counsel
- Training in legal French
- Specialized resources
- Policies pertaining to French-language services
- Recruitment criteria promoting bilingualism
- Collaborative mechanisms among stakeholders

RESULT

Development of an institutional capacity to operate in French

BARRIERS

01 Limited access to the offer

Demand for French-language services does not always align with the available offer in place. This is due to a variety of reasons (a person's unawareness of their rights, practical constraints, etc.).

02 Persistent structural barriers

Even when there is a willingness to provide services in French, some structural barriers continue to hinder effective access (limited resources, availability of bilingual personnel, access in rural regions, etc.).

AVENUES FOR ACTION

01 Improve access to services in French at every step of the legal process

02 Bolster the bilingual capacity of the justice system

03 Support and promote the exercise of language rights

Introduction

This study addresses the enablers that contribute to criminal justice in a minority Francophone setting, as well as the barriers that persist, and contextualizes them within the French-language justice ecosystem. The goal is to understand how language rights are expressed and framed in everyday justice practices within this context in Canada. Beyond the legal frameworks and policies pertaining to bilingualism, what barriers prevent legal services from being reliably available in French and, inversely, what enablers would bolster this availability? To explore this question, we examined how the criminal justice system in British Columbia operates in French and in a bilingual manner.

The report focuses on three questions, each covered in a separate section.

1. **Why choose British Columbia and criminal justice for this study on French-language and bilingual legal services in a minority Francophone setting? (section 1)**
   This section provides information on the legal, institutional, and linguistic contexts that have shaped British Columbia in order to contextualize the study and shed light on its findings.

2. **What is the model for French-language and bilingual criminal justice in British Columbia? (section 2)**
   This section provides the results from the first part of the research project: a comparative study of how proceedings unfold in English versus how they are conducted in French or in a bilingual manner. The goal is to identify the differences in proceedings, in particular in terms of resources, support, and additional tasks required.

3. **How is justice in French experienced in British Columbia? (section 3)**
   This section details the results of interviews with defence lawyers, Crown counsel, and Court of Appeal justices involved in providing French-language or bilingual legal services. Their accounts serve to document their own professional experience and, indirectly through the situations described, the personal experience of the justiciables involved in the justice system.

In the conclusion, we will present avenues for action stemming directly from interviews. These will be divided into three major areas of focus:

1. Improve access to services in French at every step of the legal process
2. Bolster the bilingual capacity of the justice system
3. Support and promote the exercise of language rights

Section 1. Why choose British Columbia and criminal justice for this study on French-language and bilingual legal services in a minority Francophone setting?

Below, we will present the contextual elements that provide insight into why we chose British Columbia and the criminal justice system for this study.

1.1 Justice in a minority Francophone setting in Canada

Scholarly works and reports on justice in a minority Francophone setting in Canada usually focus on the following two areas:

- The historical and institutional frameworks of the provinces
- Language rights in criminal law matters in Canada

The first area of focus reveals that significant progress has been made towards recognizing French as a language of justice on a national scale[6] and in some provinces (e.g., Ontario[7], New Brunswick[8], and Alberta[9]). The second area focuses on the obligations pertaining to bilingualism[10] and how these obligations are consolidated—in particular since the Supreme Court's ruling in *R. v. Beaulac* (1999)[11]—while exposing the various models implemented across Canada[12].

There have also been studies that address the challenges of implementing language rights: a shortage of bilingual resources[13], difficulties related to jury selection[14], a limited access to peace officers[15], and an inconsistent active offer[16]. These studies serve as a reminder that, despite the advances made, trials in French and bilingual trials remain rare[17].

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[6] Braën, A. (1998). L'interprétation judiciaire des droits linguistiques au Canada et l'affaire *Beaulac*. *Revue générale de droit*, 29(4), 379–409 [Braën]; Foucher, P. (2008). Langues, lois et droits. Pour qui? Pourquoi? L'action de l'État et des acteurs sociaux dans le domaine juridique en matière de langues officielles au Canada. In M. Martel & M. Pâquet (eds.), *Légiférer en matière linguistique* (pp. 389–422). Presses de l'Université Laval, pp. 400, 413 [Foucher]; Hudon, M.-È. (2011). *Bilingualism in the Federal Courts*. Library of Parliament, pp. 5, 8, 10, 12 [Hudon].

[7] Saint-Aubin, E. (1983). L'Ontario et la justice en français. *Revue générale de droit*, 14(1), 249–252; Bélanger-Hardy, L. & St-Hilaire, G. (2009). Bilinguisme judiciaire et enseignement de la common law en français en Ontario : un bilan historique. *Revue du Nouvel-Ontario*, (34), 5–58.

[8] Migneault, G. (2013). La langue de la justice au Nouveau-Brunswick selon une perspective historique. *Les Cahiers de droit*, 54(4), 781–810; Bastarache, M. (2013). La pratique du droit en français au Nouveau-Brunswick; un commentaire fondé sur la préparation et la mise en œuvre du Rapport final du Comité sur l'intégration des deux langues officielles à la pratique du droit au Nouveau-Brunswick (1981). *Ottawa Law Review*, 44(1), 1–10.

[9] Aunger, E. A. (2009). La Constitution du Canada et le statut officiel du français en Alberta. *Revue parlementaire canadienne*, 32(2), 21–25; Aunger, E. A. (2014). *L'anatomie d'un procès contre la langue française : Sa Majesté la Reine c. Gilles Caron*, 2003-2008. *Revue de droit linguistique*, 1, 30–81.

[10] Klinck, J. & al. *Étude sur les obstacles à l'utilisation de l'article 530 du* Code criminel *en Colombie-Britannique*. AJEFCB [Klinck]; Leung, J. H. C. (2019). *Conferring Official Language Rights in Legal Communication: Access to Justice and Conflict of Laws*. Oxford University Press; PGF, *supra* note 1; Hudon, *supra* note 6.

[11] Braën, *supra* note 6; Foucher, *supra* note 6.

[12] See, for example, the comparison of common law provinces (Ontario, Alberta, British Columbia and New Brunswick) in Waite, A. & Morin, J. (2012). Plaider en français devant les cours provinciales : une étude comparative. *La Relève*, 3(1), 6–7.

[13] Girard, M.-H. & Lehoux-Jobin, E. (2026). Entre langues officielles et droits linguistiques : l'accès à la justice en contexte linguistique minoritaire au Canada. *Linguistic Minorities and Society*, (27); Demilly, M., Bossé, D. & Annis, P. B. (2012). Republication : Bilingualism and the Law Society of Upper Canada. *Ottawa Law Review*, 44(1), 161–212; Grenon, A. (2013). Le rôle des barreaux canadiens en matière linguistique : le barreau québécois et le Barreau du Haut-Canada. *Ottawa Law Review*, 44(1), 31–76; Cardinal, L., Plante, N. & Sauvé, A. (2010). De la théorie à la pratique : Les mécanismes d'offre des services en français dans le domaine de la justice en Ontario. *Chaire de recherche sur la francophonie et les politiques publiques*, 2 [Cardinal].

[14] Bourgon, N. (2018). *Access to Justice in Both Official Languages: Jury Recruitment*. Justice Canada [Bourgon]; Klinck, *supra* note 10.

[15] Doucet, M. & Morin, P. (2015). L'offre active et les agents de la paix au Nouveau-Brunswick. *Revue de droit linguistique*, 2, 133–168.

[16] Cardinal, *supra* note 13.

[17] Bourgon, *supra* note 14; Klinck, *supra* note 10.

However, these analyses remain fragmented. Scholarly works and reports document specific challenges or contexts without providing an overview of the interactions among stakeholders or the resources and constraints that shape access to justice in French. In fact, little is known about how language rights are practically applied in the field or about the myriad factors that structure this implementation. Yet it is this ecosystem as a whole that determines the system's actual capacity to provide legal services in a minority setting. This underscores the relevance of a targeted and representative empirical study such as the one we are presenting here on British Columbia and criminal law.

1.2 Why British Columbia?

We chose British Columbia for two reasons:

- The scope of the progress made in terms of administering justice in French
- Its similarity to other Francophone minority settings in Canada

British Columbia is a particularly enlightening example of how access to justice in French has evolved. In 2002, the *Environmental Scan: Access to Justice in Both Official Languages* study funded by Justice Canada described British Columbia as one of the regions where "work has yet to begin"[18]. Specifically, the report noted the lack of structural resources: very few bilingual personnel, a limited access to services in French, and a very small number of trials in French or bilingual trials[19]. The needs identified were fundamental and included appointing bilingual judges and Crown counsel and ensuring the availability of Francophone clerks and sheriffs[20].

More than 20 years later, the situation has changed. The update to the 2002 study mentioned above[21] indicates that concrete measures were implemented to bolster the availability of services in French. Said measures include the creation of a bilingual prosecutions service, lists of Francophone lawyers available via legal aid services[22], a proliferation of language training opportunities, and the adoption of policies promoting the recruitment of bilingual staff[23]. This transformation has had a tangible impact, resulting in an increased number of French and bilingual cases[24].

However, this progress does not mean that the challenges have all been resolved. The update to the 2002 study also reveals an ongoing shortage of bilingual resources, in particular in rural regions, and numerous structural barriers: lack of financial incentives, logistical constraints, non-existence of formal means to evaluate language skills, and a low expressed demand for services in French.

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[18] PGF, *supra* note 1.
[19] PGF, *supra* note 1, pp. 67, 69.
[20] PGF, *supra* note 1, p. 69.
[21] Girard, *supra* note 2.
[22] Legal Aid BC. (2025). *French Lawyer List*.
[23] Government of British Columbia. (2024). *Politique en matière de services en français* [*Politique C.-B.*]; Gouvernment of Canada. (2026). *Canada–British Columbia Agreement on French Language Services 2024-25 to 2027-28* [*Canada-BC*].
[24] Béliveau, M. (2025, 25 February). L'accès à la justice en français progresse en Colombie-Britannique. *Journal La Source*.

Finally, British Columbia shares characteristics with other French-minority communities. As is the case elsewhere in Canada (outside Quebec), English is the dominant language, there is a highly diverse linguistic landscape, and the judicial system is based on common law. And as with other predominantly English-speaking regions of Canada, there are obligations of access to justice in French in British Columbia, especially in criminal matters (*Criminal Code*, section 530[25]) and increasingly in civil matters (more specifically in terms of divorce[26]) as well.

1.3 Why criminal law?

Although obligations governing language rights in British Columbia exist in other areas of the law (see the applicable legislative framework and case law detailed in Appendix 1), this study will focus on criminal law for a very simple methodological reason.

In the abovementioned 2002 and 2025 studies, consulted authorities in British Columbia (and even elsewhere in Canada) had little to report with regard to the exercise of language rights in spheres outside criminal law. This mirrors the reality observed on the ground in British Columbia: areas that may involve language rights — in particular criminal or quasi-criminal proceedings under provincial law[27] or some French-language proceedings in family matters such as divorce — still involve a very small number of cases or have been too recently implemented for well-established practices to have emerged.

Moreover, a study seeking to understand how language rights are implemented in practice must necessarily be grounded in a context where these practices are sufficiently established to be observable. In British Columbia, criminal law is currently the only main area where this type of analysis is possible.

1.4 Francophone justiciables

Who are these potential users of services in French in British Columbia?

They are primarily Francophones, i.e., persons for whom French is the “first language learned at home in childhood and still understood”[28]. In the 2021[29] census, 57,420 British Columbians (out of a population of 5,000,879[30]) declared that French was their first language. This represents a slight but steady growth since 2001, as shown in Figure 1.

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[25] *Criminal Code*, RSC 1985, c C-46 [*Criminal Code*].
[26] *Divorce Act*, RSC 1985, c. 3 [*Divorce Act*]; Supreme Court of British Columbia. (2025). *Practice Direction French Language and Bilingual* Divorce Act *Proceedings* [*Divorce proceedings*].
[27] In particular, those provided for in the *Motor Vehicle Act*, RSBC 1996, c 318 [*MVA*], since the Supreme Court of Canada confirmed in *Bessette c. Colombie-Britannique*, 2019 CSC 31, that section 530 of the *Criminal Code* is incorporated into the *Offence Act*, RSBC 1996, c 338 [*Offence Act*] (see British Columbia Prosecution Service. (2022). *Crown Counsel Policy Manual – French and Bilingual Trials – FRE-1*, p. 4 [*FRE-1*]).
[28] Statistics Canada. (2022). *Definition*—Mother tongue of person.
[29] Statistics Canada. (2023). *Population by mother tongue and geography, 1951 to 2021* [*1951 à 2021*].
[30] Statistics Canada. (2023). *Census Profile, 2021 Census Population, Result for “British Columbia”.*

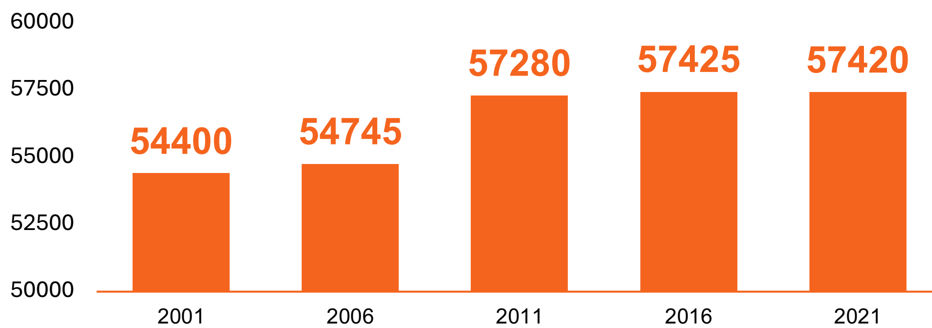

Figure 1: Changes in the French-speaking population of British Columbia from 2001 to 2021[31]

According to the *Key facts on the French language in British Columbia*[32] report, the stability and growth of the French-speaking population can be attributed to births, interprovincial migration, and international immigration. The report specifies the following:

- In 2021, among British Columbians whose only first official language spoken is French, 9.9% (or 5,440 people) were born in the province.
- The proportion of individuals born in another Canadian province or territory was 63.6% (or 35,070 people). Most of them came from Quebec (40.2%, or 22,180 people), Ontario (9.6%, or 5,300 people), or Manitoba (3.9%, or 2,140 people).
- A demographic analysis revealed that more than a quarter of the population studied (26.6%, or 14,650 people) was born abroad, mainly in metropolitan France (13.2%), Africa (5.9%), or Belgium (1.4%).

There is also a bilingual Anglophone population (6.6%)[33] in the province, which means that 328,650 British Columbians are fluent in French and therefore able to conduct a conversation in this language[34]. These individuals are scattered across the province, as the following map (Figure 2) shows:

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[31] *1951 to 2021*, *supra* note 29.
[32] Auclair, N., Frigon, C. & St-Amant, G. (2023). *Key facts on the French language in British Columbia in 2021*. Statistics Canada [Auclair].
[33] *1951 to 2021*, *supra* note 29.
[34] Auclair, *supra* note 32.

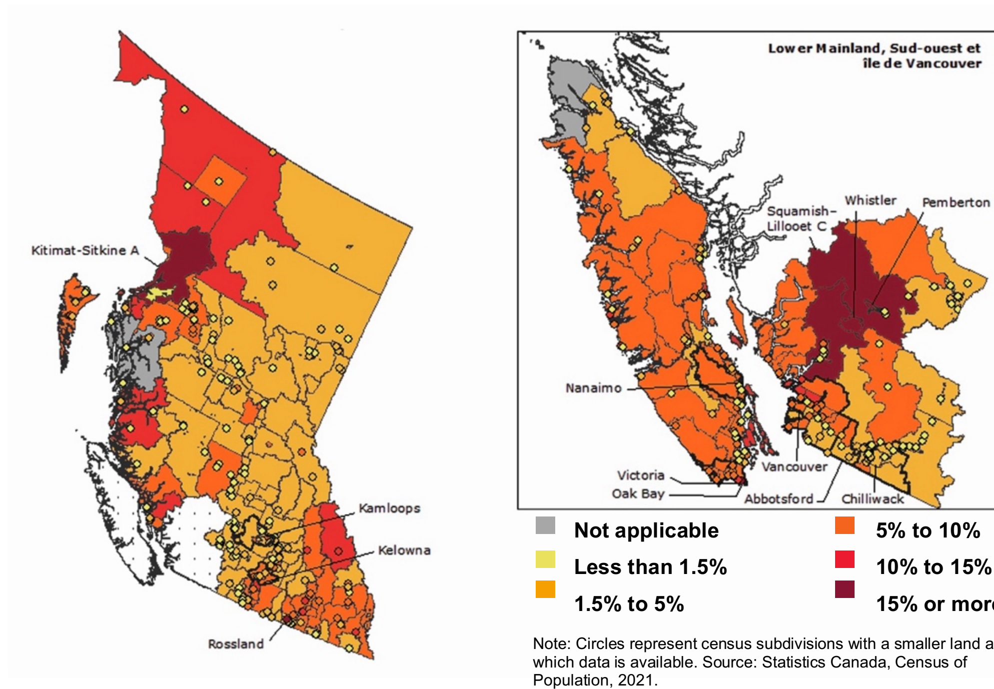
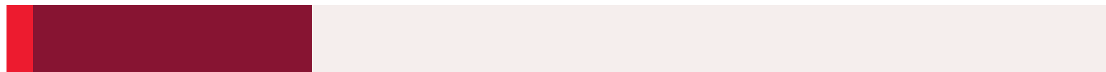


Figure 1: Proportion of British Columbia's population who could conduct a conversation in French, by census subdivision, 2021[35]

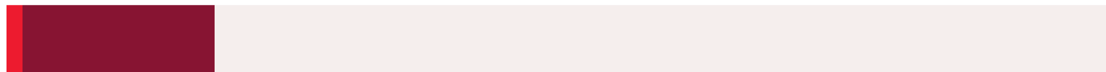
1.5 Francophone stakeholders

Providing services to Francophone justiciables requires people who are able to provide these services in French. According to data on the language skills of legal professionals from the Réseau national de formation en justice[36], a considerable number of stakeholders are proficient in French in British Columbia. However, this ability to communicate in French does not seem to be fully utilized:

- 105 of the province's 415 judges (25.3%) stated they are able to have a conversation in French but only 10 (2.4%) use French at least on a regular basis at work[37].

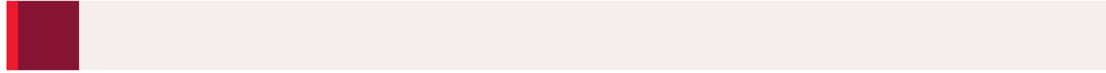


- 2,595 of the province's 14,885 lawyers (17.4%) stated they are able to have a conversation in French but only 210 (1.4%) use French at least on a regular basis at work[38].

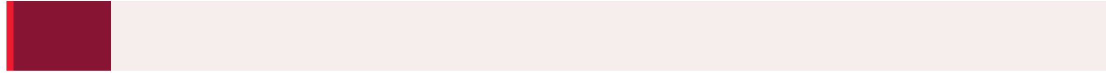


[35] *Ibid*.
[36] DPM Research. (2025). *Analyse démographique des professionnel.les de la justice dans les communautés francophones en situation minoritaire – données démographiques 2021 – Juillet 2025*. Réseau national de formation en justice [RNFJ].
[37] *Ibid*, p. 12.
[38] *Ibid*, p. 16.

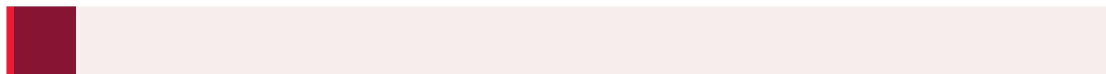
- 25 of the province's 450 court clerks (5.6%) stated they are able to have a conversation in French but fewer than 5 use French at least on a regular basis at work[39].



- 65 of the province's 730 sheriffs and bailiffs (8.9%) stated they are able to have a conversation in French but fewer than 5 use French at least on a regular basis at work[40].



- 85 of the province's 1,525 stenographers and transcribers (5.6%) stated they are able to have a conversation in French but only 10 (0.7%) use French at least on a regular basis at work[41].



Section 1. In summary

British Columbia must comply with language obligations in a context where the Francophone population, albeit in a minority situation, is constantly growing and scattered across the province. It has implemented mechanisms and can rely on stakeholders to ensure access to justice in French. This specificity makes the province a particularly relevant area to observe how formal rights translate (or don't translate) into tangible practices.

To better understand how language obligations are translated into practice, the following sections will be dedicated to a more thorough analysis of French-language and bilingual legal proceedings (section 2) and the experiences of both stakeholders and participants within the justice system (section 3).

[39] *Ibid*, p. 24; Statistics Canada rounds data to the nearest multiple of 5. However, when the number is less than 5, it is not disclosed for confidentiality reasons (see *ibid*, p. 4).
[40] *Ibid*, p. 32.
[41] *Ibid*, p. 28; The Government of Canada's National Occupational Classification groups court reporters and medical transcriptionists under a single code (251). Data for this category should therefore be interpreted with caution (see *ibid*, p. 26).

Section 2. What is the model for French-language and bilingual criminal justice in British Columbia?

We will first define the duties of information pertaining to language rights and then briefly describe how a typical trial proceeds in English. This will serve as our point of reference. We will then examine how a French-language or bilingual trial proceeds through a comparative lens.

2.1 The duty to inform the accused

First and foremost, it is worth noting that section 530(1) of the *Criminal Code* guarantees the right of an accused anywhere in Canada to a trial held in one or both of the country's official languages.

In British Columbia, an accused, even one fluent in English, can therefore ask that every step of the legal proceedings, including the preliminary inquiry, be conducted in French or in a bilingual manner[42]. The application for a French or bilingual trial must be submitted before the date of the trial is set. However, the court retains the discretionary power to order a trial in French or a bilingual trial after the deadline when it deems it is in the interest of justice to do so[43].

At the initial hearing, the judge or justice of the peace has a duty to inform the accused of this right in order to ensure they make an informed decision, regardless of the language in which the proceedings have taken place up to that point[44]. If the court fails to notify the accused of their right to a trial in French, an appeal may be granted. This was the case in the Supreme Court's ruling in *R. v. Tayo Tompouba* (2024)[45].

According to a 2019 study of the various stakeholders in British Columbia's judicial system, once the order for a trial in French has been granted by the court, this right is generally respected and the ability of the accused to understand their trial in French is usually not called into question[46].

In this regard, it is also worth noting that there has been a significant change in British Columbia since *R. v. Tayo Tompouba*[47]. Accused, including those in rural regions, are now systematically informed of their right to a French trial. According to the interviews conducted for the purposes of the subsequent section, there is indeed a clear distinction between "before" and "after" *R. v. Tayo Tompouba*. More specifically, before the ruling, information was not systematically communicated to the accused despite obligations to this effect. The decision to communicate this information or not was based on subjective criteria, e.g., the accent or name of the accused.

In parallel, a significant challenge brought up by the respondents pertains to the fact that the courts only use English to notify the accused of their right to a trial in French. Consequently, if a language

[42] Provincial Court of British Columbia. (n.d.). *Procès criminels et audiences pour infractions routières en langue française* [*Procès en français*].
[43] *Criminal Code*, *supra* note 25, art. 530(4).
[44] *Procès en français*, *supra* note 42.
[45] *Tompouba*, *supra* note 5.
[46] Klinck, *supra* note 10, p. 22.
[47] *Tompouba*, *supra* note 5.

barrier impedes the accused from understanding this information, they are effectively prevented from exercising this right, especially in situations where individuals represent themselves.

2.2 Steps of a trial (regardless of language)

In British Columbia, one can, in principle, seek access to justice in French at all levels of the judicial system. Figure 3 shows the general structure of the courts in British Columbia (for more information about how the judicial system is structured, see Appendix 2).

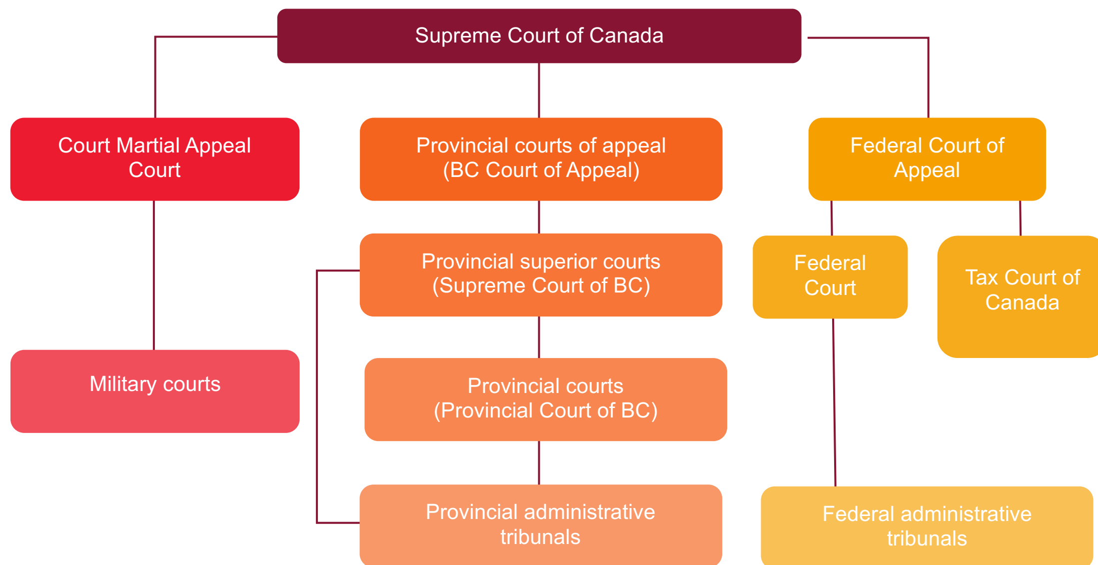


Figure 3: The justice system in British Columbia[48]

In practical terms, that means that justiciables could exercise their language rights at various levels of the court system, depending on the nature of the dispute and the applicable legal obligations. Below, we will describe the four major steps of a trial, regardless of the language in which it is conducted.

INDICTMENT[49]

The police conduct an investigation and submit a report to the Crown. The Crown then determines if there is a reasonable probability of conviction and whether prosecution is in the public interest. It will then either: file charges, decline to file charges, refer the case to a program of alternative measures, or request additional information. The accused appears before the court to be notified of the charges and their rights.

[48] Inspired from Justice Education Society. (2026). *Courts of BC*. Online Help Guide Supreme Court BC.
[49] Government of British Columbia. (2026). *BC Prosecution Service*.

TYPE OF PROCEEDINGS[50]

- At the Provincial Court, summary conviction offences, certain hybrid offences, and less serious criminal cases are heard by a single judge, without a jury.
- At the Supreme Court of British Columbia, serious criminal acts and some hybrid cases are heard in front of a judge or a judge and jury.
- At the Court of Appeal, the appeal may pertain to a conviction, an acquittal, or a sentence.

COURT PROCESS[51]

- At the Provincial Court, the accused enters a plea of guilty or not guilty. If they plead not guilty, the trial takes place: evidence of the Crown, examinations, cross-examinations, evidence of the defence, oral arguments.
- Supreme Court trials without a jury follow the same steps as trials conducted in the Provincial Court. Trials by jury usually involve 12 jurors. The verdict must be unanimous.
- At the Court of Appeal, no new trial may take place. Three justices hear the appeal.

VERDICT AND SENTENCING[52]

- The Provincial Court judge, or jury at the Supreme Court, finds the accused either guilty or not guilty. If the accused is found guilty, the judge is the one to impose the sentence. This could be a fine, probation, a suspended sentence, or imprisonment. The purpose and principles of sentencing set out in the *Criminal Code* provide the analytical framework.
- Decisions rendered by the Provincial Court may be appealed to the Supreme Court of British Columbia. Decisions rendered by the Supreme Court may be appealed to the B.C. Court of Appeal.
- The Court of Appeal can either uphold the ruling, reverse it, order a new trial, or change the sentence.

2.3 Steps of a French or bilingual trial

In a French of bilingual trial, the fact that stakeholders express themselves in French instead of English is certainly a distinguishing factor but, ultimately, the steps remain the same for trials in either language. In this section, we will describe what a French or bilingual trial entails that is in addition to (or different from) a trial in English, in particular with regards to coordinating resources, travel requirements, empaneling a Francophone jury, translating, interpreting, and providing legal information.

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[50] Provincial Court of British Columbia. (2026). *Steps in a criminal case* [*Steps*]; Provincial Court of British Columbia. (2026). *Criminal law process and principles*; Government of British Columbia. (2021). *Types of Offences*.
[51] *Steps*, *ibid*; Government of British Columbia. (2022). *Jury Selection*; The Courts of British Columbia. (2025). *About the Court of Appeal* [*Court of Appeal*].
[52] Provincial Court of British Columbia. (2026). *Sentencing*.

COORDINATING FRENCH-LANGUAGE OR BILINGUAL SERVICES

Conducting a French or bilingual trial requires bilingual judicial personnel. For a trial to be held in French or in a bilingual manner, a judge, Crown counsel, and court clerk able to work in French must be assigned to the case[53]. The position of bilingual services coordinator was recently created in order to facilitate the organization of French and bilingual trials.

ROLE OF THE BILINGUAL CROWN COUNSEL

Regional Crown counsel (who are not bilingual) also play a role in helping to implement these procedures. Once the accused decides they want to be tried in French or in a bilingual manner, they must notify the Administrative Crown counsel for Bilingual Prosecutions who will then oversee the assignment of a bilingual Crown counsel to the case and the setting of a trial date. The regional Crown counsel originally assigned to the case must notify the court that a bilingual trial may be required if the case proceeds to court. They must also request an adjournment of approximately two weeks in order for a bilingual Crown counsel to be assigned to the case and continue to appear in court on their behalf until the trial date is officially set, if applicable[54].

TRAVELLING FOR FRENCH-LANGUAGE TRIALS

If the trial in French or bilingual trial is to take place in the Provincial Court or Supreme Court without a jury, it may be held anywhere in the province. This is not the case for trials by jury. Furthermore, the policy stipulates that whenever possible, other types of hearings (trials without a jury, preliminary inquiries, sentencing hearings) must be held in the region where the charges were brought[55]. It is up to the Crown and the Provincial Court of British Columbia services to ensure this right can be exercised in the jurisdiction where the charges were brought. If applicable, fees may be incurred (e.g., travel expenses for the bilingual Crown counsel).

DESIGNATED LOCATION FOR A TRIAL BY JURY

When a trial by jury takes place in the Supreme Court of British Columbia, it must comply with the Supreme Court's policy on trials in French and take place in New Westminster (designated location as of 2020) or, since 2023, in Vancouver unless otherwise ordered by the Associate Chief Justice[56].

[53] Government of British Columbia. (2025). *Procès en français*.
[54] *FRE-1*, *supra* note 27, pp. 3–5.
[55] *Ibid*, pp. 4–5.
[56] Supreme Court of British Columbia. (2023). *Directive de pratique en matière pénale – Procès devant jury d'une affaire pénale en français ou dans les deux langues officielles* [*Directive*]; *FRE-1*, *supra* note 27, p. 5.

SEPARATE LIST FOR FRANCOPHONE JURORS

If the French or bilingual trial is a trial by jury, the persons summoned to be jurors are chosen from a separate list of potential Francophone or bilingual jurors (*Procès avec jury Francophone*[57]). French-speaking British Columbians may volunteer to add their name to this list. The goal is to ensure jurors are able to fully understand the instructions they are given, the evidence, oral arguments, and submissions. Even though the process of selecting a jury is the same for a trial in French, it entails an additional level of complexity due to a documented shortage of Francophone jurors[58].

INTERPRETATION

When the accused opts for a bilingual trial, the parties, judge, and witnesses may express themselves in one of the two official languages throughout the trial[59]. However, they must make sure that neither official language is disproportionately used throughout the proceedings. When a trial is ordered in French, any witness testimony in a language other than French must be interpreted in French. Consequently, during a trial conducted only in French, the court must ensure a certified interpreter is on hand to interpret the testimonies and exchanges between the witnesses and other individuals that take place in English to ensure the proceedings are fully understood by the accused[60].

TRANSLATION

Under section 530.01(1) of the *Criminal Code*, only portions of an information or indictment against the accused must be made available in French[61]. In a trial in French, there is no obligation to translate evidence. However, the interviews (section 3) conducted reveal that in practice, both the defence and prosecution translate documents into French to ensure a clearer and more direct understanding of the case (i.e., without the intermediary of interpretation), especially when the evidence is deemed to be crucial to the case.

LEGAL INFORMATION AND FORMS IN FRENCH

Justice in French also entails having access to information in French and the ability to submit forms in French. While the amount of information available in French on the official websites of the provincial courts and the Supreme Court has increased, there is still much work to be done. Even though over a dozen forms are now available in French, a significant number of

[57] Justice Education Society (2022). *Jury Duty*; Government of British Columbia. (2020). *Procès avec jury Francophone*.
[58] Nebor, C. (2026). L'Association des juristes d'expression française de la Colombie-Britannique tire la sonnette d'alarme sur la pénurie récurrente de jurés francophones. *Journal La Source*; Desjardins, R. (host), Mandanici, S. (guest) (2026, 5 May). Manque de ressources pour la justice en C.-B. : Sandra Mandanici. [Webradio]. In Société Radio-Canada Ohdio (prod.), *Panorama*.
[59] *FRE-1*, *supra* note 27, p. 2.
[60] Provincial Court of British Columbia. (2026). *Interpreters*.
[61] *Criminal Code*, *supra* note 25, art. 530.01(1).

documents essential to criminal proceedings have yet to be translated[62]. Furthermore, the web page for forms is only available in English and, in most cases, the user needs to click on the English title to gain access to the French version. In fact, a French web page was created for the Supreme Court of British Columbia, but several forms have still not been translated. A note states that some will be translated in the near future[63].

Section 2. In summary

Even though the legal framework provides clear safeguards when it comes to language rights, implementing these requires some adjustments and a level of organization that is somewhat more involved for trials conducted in French than for those conducted in English. Trials in French depend on the availability of resources and are impacted by logistical constraints. Consequently, while access to justice in French is effective on several levels, it remains affected by contextual factors.

Section 3 will take a closer look at these factors. Based on the findings gleaned from interviews with stakeholders in the judicial system, we will seek to gain a better understanding of the challenges they face and the practices implemented on the ground.

[62] Government of British Columbia. 2026. *Criminal court forms*.
[63] The Courts of British Columbia. 2025. *Directives/règles pénales et avis administratifs*.

Section 3. How is justice in French experienced in British Columbia?

Given the context in British Columbia, where the justice system has gradually established policies, mechanisms, and resources to make it possible for trials to be conducted in French or in a bilingual manner, but where barriers remain[64], it was essential to carry out fieldwork to better understand the practical realities of implementing language rights.

This exercise entailed interviews[65] with justices from the Court of Appeal, defence lawyers, and Crown counsel. The questionnaire[66] included a combination of open-ended questions and closed-ended questions to allow participants to provide answers based on their experience.

We will now reveal the results of the interviews, structured according to the three sections of the questionnaire:

1. **Use of French and linguistic ease:** In studies on bilingualism within the justice sector, the system's capacity to provide services in both official languages is often tied to self-reported census data[67]. Do these indicators accurately reflect reality? We provide some answers in the first part.
2. **Additional tasks:** It is often said that stakeholders within the justice system who are fluent in French are asked to perform additional tasks to enable justice to be delivered in French. But is this true? We will try to answer this in the second part.
3. **Barriers facing stakeholders and participants:** Is justice really more complex, lengthy, and expensive in a minority Francophone setting? What motivates stakeholders to provide legal services in French? What are the barriers? The third part provides some insights.

Notes on the limitations of the methodology

Earlier, we stated that one limitation of the study stemmed from its conceptual framework, i.e., the fact that the study exclusively focuses on language rights in the context of criminal law. A second limitation was discovered during the data collection phase.

Obtaining the necessary authorizations turned out to be complex; several organizations refused our invitations. Consequently, it was not possible to include certain categories of key stakeholders such as judges of the Provincial Court, Supreme Court justices, sheriffs, or clerks from any court[68]. These constraints therefore resulted in certain limitations, most notably the absence of the perspective of some stakeholders and the limited size of the sample (14).

While these limitations exist, several considerations put the negative impacts of these constraints into perspective.

[64] Girard, *supra* note 2.
[65] The research project has been approved by the research ethics committee (REB-1) at McGill University (25-11-032).
[66] The interview questionnaire is available upon request (info@1j1a.ca).
[67] For example, the study led by RNFJ, see *supra* note 36.
[68] Crown counsel were contacted through the Bilingual Criminal Prosecution Service, justices through the Court of Appeal, and defence lawyers through the AJEFCB and the provincial legal aid office's list of bilingual defence lawyers.

First, even though the Court of Appeal justices who agreed to be interviewed all stated they never held a hearing in French at the Court of Appeal, they also stated that they had previously served in other courts and were familiar with the challenges facing the French-speaking legal community. As a result, they were able to elaborate on their previous activities which helped to shed light on the realities of the justice system.

Second, even though the sample size was limited, it includes three types of stakeholders who are crucial to the system and at the forefront of justice in French (e.g., justices, Crown counsel, defence lawyers). Moreover, respondents hail from urban areas, in particular Vancouver and the surrounding areas, as well as other cities and regions in the province. This enabled us to obtain a plethora of perspectives.

These elements must be interpreted within the context of a study based on a qualitative and exploratory approach where the wealth and depth of the testimonials matter more than the number of respondents. In this regard, the interviews enabled us to gather highly detailed and nuanced data which in turn provides insight into the practices and challenges observed.

We are therefore confident that the limitations encountered (both those pertaining to the conceptual framework and the sample size) have not substantially hindered the scope of the analysis. Instead, they serve to place the results within their specific methodological context, i.e., an exploratory study of British Columbia's French-language criminal justice ecosystem.

3.1 Use of French and linguistic ease

As part of our study, we asked respondents to state how often they use either official language[69] while distinguishing between:

1. Communications with other stakeholders (colleagues, employer)
2. Communications with participants of the justice system (clients, the accused, witnesses, etc.).
3. Personal communications

When a respondent stated their linguistic ease in French was different than their linguistic ease in English, we asked them to explain this difference and to specify what they would need to feel as comfortable communicating in either language. Below, we present the detailed data and then conclude with some interesting findings.

[69] Note that we do not distinguish between spoken and written language (conversations and emails, for instance).

FREQUENCY OF USE OF FRENCH

COMMUNICATIONS WITH COLLEAGUES AND THE EMPLOYER

Based on the answers to the question "**Approximately what percentage of your communications with *your colleagues or your employer* are in French compared to English?**" we determined that respondents use French on average 10.0% of the time in these types of communications[70, 71, 72]. It is worth noting that two respondents stated they communicated in French more than 40.0% of the time while only one answered they never did.

Defence lawyers (average use rate of 6.5%) communicate with colleagues and their employer in French almost only in the context of their French-language cases. These exchanges often take place in the courtroom or hallways and are mainly with Crown counsel, whom they consider colleagues. For a minority of respondents, these exchanges also occur in more indirect and informal contexts such as the translation of their firm's website or when providing assistance to other defence lawyers. Generally, the frequency of use of French is lower in this group than for all respondents. This can be explained by the fact that most defence lawyers have their own private practice, meaning they don't have the same opportunities to communicate with Francophone or bilingual colleagues.

Crown counsel (average use rate of 21.0%) also use French mainly when handling French-language cases, in particular in the courtroom or during consultations with their supervisors and colleagues. They may also communicate in French during team meetings or on calls that may be related to either their cases or to logistical or administrative topics.

Finally, **justices** (average use rate of 2.3%) rarely communicate in French with colleagues. They explain this by the fact that there have been no appeals in French in more than 10 years. Opportunities to use French are therefore mainly limited to mandatory professional development activities, such as a week of training in Quebec City.

[70] This is the average use rate for all respondents.
[71] It should be noted that participants may interpret this question differently, particularly with regard to what constitutes communication with colleagues or the employer. The results should therefore be interpreted with caution, taking this variability into account.
[72] When responses were given as a range (e.g., between 10% and 15%), we used the average (e.g., 12.5%). When responses were given as "less than x%", we used the whole number indicated (e.g., 5% for the response "less than 5%").

COMMUNICATIONS WITH CLIENTS, THE ACCUSED, AND WITNESSES

Based on the answers to the question "**Approximately what percentage of your communications with *clients, the accused, or witnesses* are in French compared to English?**" we determined that defence lawyers and Crown counsel use French on average 12.3%[73] of the time in these types of communications. One single person in the "Crown counsel" category deemed they used French more than 60.0% of the time. Justices for their part stated they do not communicate in French with people corresponding to these designations due to the fact that their court does not hear cases in French.

Among **defence lawyers** (average use rate of 6.6%), using French mainly occurs when dealing with cases involving Francophone accused (and often involving legal aid services). French may also be used in certain related communications, in particular with legal assistants or as part of duty counsel services. Many stated that taking cases in French remains dependent on their workload in English, although they expressed a willingness to take on more.

Among **Crown counsel** (average use rate of 18.1%), using French with the accused and witnesses occurs almost exclusively when taking on cases involving a Francophone accused. In some cases, this usage is more pronounced when the accused chooses to represent themselves, entailing more written communications in French and translation to facilitate the process for the accused.

PERSONAL COMMUNICATIONS

Based on the answers to the question "**Approximately what percentage of your *personal communications* outside of work are in French compared to English?**" we determined that respondents use French on average 18.0%[74] of the time in their personal communications.

For **defence lawyers** (average use rate of 14.0%), using French in their personal communications mainly occurs when interacting with friends and family. It may also occur in broader contexts, such as when interacting with the public, at their children's school, or during cultural activities. Some responded that French is also used among colleagues in a formal setting, in particular with the objective of maintaining or improving their language skills.

[73] Interpretations of this question may vary; see note 71.
[74] *Ibid.*

Among **Crown counsel** (average use rate of 32.6%), the use of French also occurs in family and social settings, in particular in the presence of friends and family. It also occurs when interacting with the public and taking part in informal exchanges with colleagues. Generally, Crown counsel seem to use French as part of their day-to-day activities more frequently than other respondents, in particular at home.
Among **justices** (average use rate of 6.7%), the use of French mainly occurs in informal settings, in particular with other justices, as well as with friends and family. It can also occur during cultural activities or during trips. Generally, the use of French remains occasional and linked to specific social or personal contexts.

Observations on the use of French

- The **use of French varies greatly depending on the group** and context but remains largely a minority language in professional communications. It is however more prevalent for certain specific roles and in certain situations.
- Among the three groups, the use of French tends to occur in **specific contexts** (cases involving Francophones, informal interactions, training, personal communications).
- **Defence lawyers** use French in a more limited but essentially functional manner, mainly when dealing with cases involving Francophone clients. French also plays a greater role in their personal lives than in their professional ones.
- **Crown counsel** stand out for their relatively greater use of French across all three areas. With respect to their professional communications, this is due to their greater exposure to Francophone cases and the interactions these require.
- **Justices** use French on a limited basis in their professional communications. This is explained by the fact that no French-language cases have been heard in their court.

LEVEL OF LINGUISTIC EASE IN FRENCH

We also asked respondents to rate how comfortable they were communicating in French and English on a scale of 0 (not comfortable at all) to 5 (extremely comfortable), with 1) their colleagues and their employer, 2) clients, the accused, and witnesses, and 3) people in their personal lives. Here is the average for each group and type of communication:

Types of communication	With colleagues and the employer		With clients, the accused, and witnesses		Personal communications	
Linguistic ease in	French	English	French	English	French	English
Defence lawyers	3.9	5	4.2	5	4.5	5
Crown counsel	4.25	4.6	4.6	4.75	4.75	4.7
Justices	3.8	5	N/A	N/A	4.5	5

Table 1: Linguistic ease by category of professional and type of communication

In terms of communications with colleagues and the employer, we noted that in general, Crown counsel were more comfortable communicating in French (4.3) than defence lawyers (3.9) and justices (3.8). They also reported they were comparatively comfortable in either official language: the gap between French and English in the other two groups was more apparent.

In terms of communications with clients, the accused, and witnesses, justices in the Court of Appeal reported no data because they have had no interactions in French with clients, the accused, and witnesses in their courtroom. The results for the other categories of professionals revealed a generally high level of comfort in both languages.

Finally, the results reveal a high level of comfort in both languages in the respondents' personal lives, with defence lawyers and justices consistently rating their linguistic ease in English at the highest level. Their linguistic ease in French was also rated very high.

Overall, the most striking rating is the one provided by defence lawyers and justices in their communications in French with colleagues and the employer (i.e., in the courtroom). This is the context in which they are the least comfortable communicating in French.

Observations on respondents' linguistic ease

- In general, respondents in the three groups reported a **high level of comfort in French** in every context, with the highest ratings in their personal communications. This suggests that **perceived language skills are overall high but that employing these skills varies depending on the professional and institutional context.**
- **Crown counsel** rated their linguistic ease in French the highest (4.3 to 4.8, depending on the context). The difference between their linguistic ease in French and English is also smaller, nearly inexistent in certain contexts (specifically personal communications and communications with clients), which suggests **a more symmetrical functional bilingualism, including in the work environment.**

SELF-ASSESSMENT OF DIFFERENCES IN LINGUISTIC EASE

When a respondent indicated their linguistic ease in English differed from their linguistic ease in French in one or more communication contexts, we asked them to explain this difference and to specify what they would need to feel as comfortable communicating in either language. Because responses were similar between groups, the results are broken down by type of communication instead of by category of professionals. Even though two participants stated they were less comfortable communicating in English than in French, the data below focuses on people who reported a lower comfort level in French than in English.

COMMUNICATIONS WITH COLLEAGUES AND THE EMPLOYER

The difference between a respondent's linguistic ease in French and their linguistic ease in English when communicating with colleagues and their employer can mainly be explained by factors pertaining to exposure, practice, and knowledge of legal vocabulary.

Several respondents stated they generally feel comfortable communicating in French but nevertheless find it difficult to do so in a professional context due to the lack of familiarity with legal terminology—of which they often have a better command in English. This situation is exacerbated in a mostly English-speaking work environment where there are limited opportunities to practise legal French. Some respondents also stated they were reluctant or embarrassed to express themselves in French for fear of making a mistake. This may prevent them from feeling comfortable with the language in a formal professional setting. Even native speakers indicated French cases require more time to prepare and stated they used tools such as the annotated *Criminal Code* in French or prepared scripts prior to the trial.

The dearth of specialized training activities and genuine opportunities to practise French consequently emerged as a determining factor. Several respondents stated that there is no substitute for experience in the courtroom and that training activities or conferences in French are useful but insufficient if they are not regularly exposed to the language.

COMMUNICATIONS WITH CLIENTS, THE ACCUSED, AND WITNESSES

With regards to interactions with clients, the accused, and witnesses, several respondents stated that overall, they felt as comfortable with both languages, in particular because it represented a less formal setting. However, they stated that being proficient with legal terminology in French remains a constant challenge, both orally and in their written communications. This is due to a lack of exposure to legal French.

Some respondents noted challenges specific to interactions with the accused and witnesses in French, in particular due to the variety of accents and the varying quality of the language, which can make comprehension difficult. Moreover, only two respondents (one defence lawyer and one Crown counsel) reported a lower level of comfort in French when communicating with clients than with colleagues. For defence lawyers, this can be explained by the fact that clients sometimes speak in a more colloquial manner and may have diverse accents, whereas in the courtroom, the presence of interpreters and the use of a more formal French facilitates communication.

More broadly, the lack of opportunities for practice and immersion, as well as the lack of specialized training, were identified as key factors. Several respondents stated that training activities, in particular mock trials, improved their linguistic ease in communications with the accused, witnesses, and other participants of the justice system. However, this was not a substitute for real-world experience. In addition, we have confirmed that the Association des juristes d'expression française de la Colombie-Britannique (AJEFCB) no longer offers simulation training.

PERSONAL COMMUNICATIONS

Respondents stated they are generally more comfortable using French and English in their personal communications than in a professional setting. This can be mainly explained by the informal nature of the interactions, the absence of pressure related to the consequences of making a mistake, and the fact that these situations don't require being proficient with technical legal terminology. For instance, one respondent stated they feel less articulate when communicating in French which hinders their self-confidence. But the inverse seems to hold true as well with one participant stating they feel more articulate in professional settings because they were formally educated in French. As a result, they have an excellent academic knowledge of French but have to contend with gaps in their basic vocabulary.

Observations on the differences in linguistic ease

- The fact that respondents feel a lower level of comfort in French can primarily be explained by **a lack of exposure and insufficient practice in a professional context**, in particular in a mostly English-speaking environment where opportunities to use legal French remain limited.
- **Command of French legal vocabulary** is the primary hurdle, even for native speakers.
- The **dearth of specialized training and immersion opportunities** plays a determining role with respondents stating that it is only through hands-on experience in the courtroom that one can develop a real and lasting linguistic ease in the language.
- A **type of linguistic insecurity** persists, in particular in formal settings where the fear of making mistakes can prevent someone from communicating in French despite their overall high level of proficiency.

QUALITATIVE ANALYSIS OF LINGUISTIC EASE

We conducted more detailed qualitative analyses to identify other trends. Three findings appear to be particularly significant.

NO LINK BETWEEN LINGUISTIC EASE AND FREQUENCY OF USE

The analysis does not reveal any direct link between how frequently a respondent uses French and their stated linguistic ease in the language in professional contexts. Some respondents stated they had a high level of comfort despite their limited use of French in the workplace. Others for their part reported they use French on a more regular basis but are less comfortable with the language. In professional settings, there is no observed systematic relationship between a respondent's linguistic ease in a language and how often they use it. These two variables may shift independently from each other depending on the individuals and situations.

We can therefore hypothesize that when it comes to interactions in French, the key is quality over quantity. Moreover, several respondents mentioned how beneficial training is, even when very short and targeted. Examples include those offered by the AJEFCB (mock trials, etc.) and the Centre canadien de français juridique (online or a skills enhancement week).

LINGUISTIC INSECURITY: A UNIVERSAL EXPERIENCE

The results reveal a significant gap between respondents whose mother tongue is French and those who learned it later on. Unsurprisingly, the former generally stated they are more comfortable in every communication context.

This gap must however be put into perspective. Among respondents whose mother tongue is French, several stated they have a lower level of comfort in certain professional settings, specifically when taking part in formal exchanges with colleagues or in the courtroom. The results suggest that having French as a mother tongue leads to an overall higher level of comfort in the language but does not completely mitigate the impacts associated with the work environment, the level of formality, or the lack of opportunities to use French in a professional context. Indeed, Francophones also experience linguistic insecurity, in particular after several years of working in a predominantly English-language environment.

LEVEL OF FORMALITY AND DEDICATED TEAM

In our study, the questions were tailored to the type of communication appropriate for each audience (other stakeholders, participants, and personal life). In reality, the results suggest that a respondent's linguistic ease depends less on the audience than on the level of formality expected. Inextricably linked to this question is the notion of how the work is organized. In fact, this point directly impacts the linguistic ease reported.

For instance, many defence lawyers work on their own or in predominantly English-language environments, or both. How often they use French depends on whether they handle cases involving Francophone justiciables and whether they have opportunities to use French in this context. Consequently, they are less comfortable in a professional context.

Inversely, Crown counsel generally reported a higher level of comfort in all contexts, which seems to be linked to their bilingual work environment and the frequent opportunities they have to use French in their communications with colleagues, even when they do not have cases involving Francophone justiciables.

BETWEEN SELF-REPORTING AND ACTUAL ABILITY

In the introduction, we stated this section would focus on the following question: do the self-reported indicators pertaining to one's ability to have a conversation in French, such as the ones used in censuses, accurately reflect the abilities of stakeholders in the justice system to provide services in French?

The results of the study suggest that these indicators are a useful starting point to assess the justice system's overall ability to operate in French. In particular, they serve to identify a potential pool of professionals able to communicate in the language. However, the indicators are insufficient to accurately assess the reality surrounding the offer of services in French.

In fact, the data shows significant individual variations tied to the following: the work environment, the level of formality, genuine exposure to legal French, how the work is organized, and the respondent's linguistic ease in the language. The stated ability to have a conversation in French does not necessarily translate into an equivalent linguistic ease in all professional settings, especially in the courtroom or when taking part in specialized legal discussions.

Other observations about linguistic parameters

- As regards the frequency of use of French and the declared linguistic ease, **the quality of opportunities to practise the language** plays a more determining role than the quantity of said opportunities.
- **Linguistic insecurity** also affects individuals whose mother tongue is French, especially in formal professional settings and after several years of working in a predominantly English-language environment.
- The **level of formality** and how the work is organized strongly influence a person's linguistic ease. Stakeholders who are part of bilingual teams or who have regular opportunities to use French generally reported a higher level of comfort.
- **Practical, targeted training activities** with legal French (mock trials, language skills enhancement, simulation exercises) seem to be especially useful to bolster one's linguistic ease in a professional setting.
- **Self-reported indicators** on the ability to have a conversation in French remain a useful tool to assess the system's potential to operate in a bilingual manner. However, they alone are not sufficient to assess the system's actual capacity to provide legal services in French in specialized, formal contexts.

Avenues for action and reflection on the use of French and linguistic ease

Based on the data and observations in Section 2, we have drawn conclusions that are presented here as avenues for action on the use of French and linguistic ease in the language. The goal is to fuel reflections on the future of access to justice in French in British Columbia.

- Acknowledge that **linguistic insecurity** can affect all professionals, including those whose mother tongue is French, and tailor support measures accordingly.
- Promote the creation of **bilingual work environments** or communities of practice that foster exchanges in French on a regular basis between colleagues and promote an **institutional culture that values the use of French**, including for internal communications and informal exchanges.
- Increase the number of **genuine opportunities** to use French in the day-to-day work environment, i.e., extending beyond situations involving Francophone justiciables.
- Develop more **practical training activities focusing on legal French**, especially training centred on interactions in the courtroom and real-world simulations, and increase the number of **opportunities for professional immersion in French**, in particular through the use of mock trials, internships, intensive training programs, or interprovincial exchange programs.
- Implement **mentorship or support mechanisms** for professionals who want more opportunities to practise French.
- **Provide specific support to self-employed defence lawyers** who often have fewer opportunities to work in French.
- Strengthen the presence of French in routine court activities in order to **make French-language and bilingual proceedings less of an exception**.

3.2 Additional tasks in French

Respondents interviewed were asked to specify their role. Justices, Crown counsel, and defence lawyers generally have tasks in common: research, drafting, case management, communication, trial planning, oral arguments and, for some, managerial duties. Certain respondents also reported handling additional duties such as providing specific support to justiciables (mental health, assistance to people held in custody, support line), overseeing educational activities, and taking on institutional roles (chairing organizations or serving on committees). These roles remain the same, regardless of whether the services are offered in French or English.

We asked respondents if, in addition to these routine tasks, they had to take on additional tasks simply because they are fluent in French (such as answering questions from clients or helping colleagues or their employer). Here are the results, divided by category of professional.

ADDITIONAL TASKS REPORTED BY DEFENCE LAWYERS

The work defence lawyers do in French mainly pertains to representing Francophone accused. However, the role they play often goes beyond what defence lawyers normally do because they must also defend the language rights of their clients, in particular by managing the submission of forms and documents in French, coordinating interpretation services, researching case law in French, and seeing to the tasks of translating, and even sometimes interpreting, in the courtroom.

Some lawyers reported they perform other tasks to support colleagues or clients. For instance, they stated they've taken on the task of translating their firm's website, assisted colleagues to schedule preliminary meetings with Francophone accused, and helped persons held in detention to use the police station's phone system which is only set up in English.

In some cases, they reported carrying out tasks that normally fall to the court, in particular when the clerk refuses to accept documents in French that they must then translate.

Some defence lawyers — especially those with more experience with language rights — occasionally provide support to colleagues outside their firm by handling cases in French or answering questions. However, they specified that they do not consider this to be a burden. They deem their work to be rewarding and conducted in the spirit of friendship and camaraderie between Francophone lawyers.

Being fluent in French can also drive them to expand their service offer. For example, some stated they were asked by legal aid services to take on cases that were outside their field of expertise. In other instances, defence lawyers were asked to take on cases from other regions due to internal legal aid policies that allow Francophone justiciables to select a bilingual lawyer outside their region.

Despite the additional labour that justice in French may entail, defence lawyers who took part in the survey expressed a genuine desire to work in French and would like to do so more often. They feel motivated by a sense of commitment to access to justice and language rights.

ADDITIONAL TASKS REPORTED BY CROWN COUNSEL

As for Crown counsel, tasks conducted in French centre mostly on handling French-language cases and the activities related to the existence of a team of bilingual Crown counsel. Such activities include attending events in French and fall within the scope of their professional duties because they are employed by the Bilingual Prosecutions Service.

As with defence lawyers, Crown counsel reported they take on tasks they consider being additional to their duties when handling cases in French. These tasks involve translating miscellaneous documents and forms, some evidence, and some case law and criminal records. They also stated they've been tasked with drafting in French, especially when they had no Francophone legal assistants to support them.

Even though under the *Criminal Code*, Crown counsel have no obligation to translate evidence and case law in English, respondents reported translating documents in order to, for instance, facilitate court proceedings (e.g., presenting evidence or citing case law in their written submissions or oral arguments).

While Crown counsel did not specifically raise this point, several defence lawyers explained they take it upon themselves to ask Crown counsel to translate the most significant pieces of evidence. They consider this endeavour to be connected to their ethical duty to present the best evidence possible.

However, it should be noted that unlike defence lawyers, several Crown counsel struggled to spontaneously name specific examples of additional tasks such as translation. While this should not serve as a direct baseline for comparison with defence lawyers, the fact that Crown counsel struggled to answer questions about additional tasks pertaining to bilingualism may suggest that the burden associated with delivering bilingual services varies depending on the positions held.

ADDITIONAL TASKS REPORTED BY JUSTICES

Given that in the past decade there have been no appeals in French heard by the Court of Appeal, justices were not able to take a substantive position on this question. For their part, respondents who have previously sat on the Supreme Court in French stated their proficiency with the language did not result in them taking on any additional tasks within this context.

In sum, the tasks justices carry out because they are fluent in French mostly take place outside the scope of their judicial duties, e.g., taking part in mandatory training and professional activities (conferences, bilingual presentations).

They also stated they use French for related tasks, such as leading meetings conducted in French or in a bilingual manner within an organizational context.

Avenues for action and reflection on the additional tasks falling to persons fluent in French

The additional tasks associated with providing justice in French seem to fall to defence lawyers the most. Our conclusions are therefore mostly drawn on their experience and are presented as avenues for action to foster further reflection on access to justice in French in British Columbia.

- Bolster **French-language support resources** (clerks, legal assistants, translation, coordination) **to make it easier to process French documentation**.
- Better inform stakeholders of the **legal obligations regarding translation and bilingual documentation**.
- Clarify **institutional responsibilities** to prevent administrative or linguistic tasks from falling to bilingual individuals.
- Develop **centralized, accessible French-language tools** (templates, forms, case law, term bases).
- Officially acknowledge the **additional work needed for the delivery of services in French** and provide greater support to the people who agree to handle French-language cases from other regions or outside their area of practice.

3.3 Barriers faced by stakeholders and justiciables

The third section of the questionnaire represented the crux of the study — challenges facing stakeholders in the context of justice in French. In some cases, the answers also provided insight into what justiciables experience. Before presenting any data on the challenges facing stakeholders and justiciables, we will first present some results on how justice is perceived and what motivates stakeholders to contribute to the administration of justice in French.

HOW ACCESS TO JUSTICE IS PERCEIVED

We asked respondents to rate access to justice in British Columbia on a scale of 0 (completely inaccessible) to 5 (very accessible). One respondent was not able to provide a rating but put forward points for consideration.

On average, access to justice was rated at 3.7 out of 5. When participants rated access to justice in English only, the rating increased to 4 out of 5. But when it pertained exclusively to access in French, the rating dropped to 2.8 out of 5.

Respondents were asked to indicate if access to justice in French is more, as, or less complex, lengthy, and costly than it is in English. In general, most respondents reported that access to justice in French is more complex, lengthier, and more costly than it is in English.

Every respondent reported that access to justice is more complex in French than it is in English, both for stakeholders and justiciables, in particular because of the lack of resources and the logistics French or bilingual trials require ahead of time.

With respect to the time aspect, 13 of the 14 respondents stated that, in essence, justice in French does not require more time than it does in English. What makes justice in French more protracted are certain aspects such as the coordination of resources before the trial and consecutive interpretation.

As regards the costs, 12 respondents indicated they believe justice in French to be generally more costly, noting that costs increase only in the event travel is required. Even though we focused on the costs generated by administering justice, some respondents distinguished between the costs incurred by the accused and the costs covered by the system.

The two following sections describe these challenges and help explain what exactly makes justice in French more complex, more protracted, and possibly more costly than in English.

Observations on how access to justice is perceived

- Access **to justice in English is perceived quite differently than access to justice in French**. While in general, access to justice is believed to be relatively adequate, access to justice in French is deemed to be significantly more restricted.
- Justice in French is **more complex to organize and, in most cases, lengthier and more costly.**

ROLES AND MOTIVATIONS WITH REGARDS TO ADMINISTERING JUSTICE IN FRENCH

Throughout the interviews, respondents stated they informed justiciables of their language rights to varying degrees and for different reasons. Below, we will present the role they play and their motivations with regards to language rights.

ROLES OF STAKEHOLDERS

Overall, 10 out of 14 respondents said they directly or indirectly inform individuals of their right to proceedings in French.

More specifically, every defence lawyer stated they directly informed justiciables of their right to proceedings in French in criminal law matters.

Crown counsel for their part were a bit more nuanced in their responses. Only one affirmed they did so directly. Others stated they either have not done this or did so indirectly. Even if the information is generally communicated by a judge or the defence lawyer, some Crown counsel take it upon themselves to remind the court of this obligation, in particular when they realize the accused speaks with an accent. In addition, some Crown counsel also specified they inform witnesses of their right to an interpreter or discuss these rights more broadly in informal conversations with members of their entourage.

None of the justices surveyed has had to inform a justiciable of their right to proceedings in French due to the nature of the proceedings (appeals). However, all of the respondents stated that the Provincial Court and Supreme Court of British Columbia routinely read out language rights.

MOTIVATIONS OF STAKEHOLDERS

What motivates respondents to inform the accused of their language rights? The myriad reasons vary between categories of professionals.

Defence lawyers

Defence lawyers are mainly guided by their professional obligations when it comes to language rights. Because they are the first point of contact with the accused and are part of a limited pool of Francophone lawyers in the province, many expressed a strong sense of responsibility towards Francophone accused and feel it is their duty to enable them to fully exercise their right to criminal proceedings in French.

Motivations are also profoundly tied to personal and professional considerations. Indeed, many defence lawyers stressed the importance of ensuring individuals fully understand the proceedings and actively take part in them. This is essential to a fair trial, especially in a minority-language setting and in circumstances that can be stressful. In fact, even if an accused understands English, they might not necessarily be comfortable with the language. This is especially true in criminal law, a field that is highly technical and where nuance is critical.

Some respondents also spoke of values related to acknowledging French as an official language and the need to ensure its continued existence within the justice system. Several defence lawyers also

noted they are willing to promote access to justice in French, going so far as to delegate cases they cannot handle to bilingual colleagues they trust.

Crown counsel

As for Crown counsel, their motivations also rest on a combination of professional obligations and personal values even though they have a limited role to play when it comes to providing information (as mentioned above).

Several Crown counsel nevertheless stated they are dedicated to broader principles of access to justice and the vitality of official languages. They also highlighted the importance of ensuring Francophone justiciables have a clear understanding of the proceedings and that they provide them with the appropriate services within a mainly English-speaking setting. Some also stated that they personally support the idea of a truly bilingual justice system and as such fully promote language rights, including in informal settings.

Observations on the roles stakeholders play and their motivations related to language rights

- Most of the stakeholders in the justice system **promote, either directly or indirectly, language rights** but to varying degrees depending on their role, institutional practices, and stage of the proceedings.
- All stakeholders are motivated by **professional obligations** and normative considerations pertaining to access to justice, procedural fairness, and to acknowledging the place French occupies within the judicial system.

EXPERIENCE OF STAKEHOLDERS

We will now focus on the experience of stakeholders with criminal justice in French. What makes the process of implementing rights to proceedings in French more difficult? In practice, what makes the process more complex, prolongs delays, and increases the costs of providing access to justice in French? In some instances, justiciables and lawyers face the same barriers. These will be outlined below. The subsequent section will focus on the barriers justiciables face.

CHALLENGES RELATED TO THE FRENCH LANGUAGE

Proficiency with the language

A majority of respondents cited their low level of linguistic ease in French and lack of confidence with legal terminology in the language as being their main personal barrier. This challenge (which was the subject of an in-depth analysis in section 3.1) has a direct impact on their practice. Some are even reluctant to accept legally complex cases because of the additional preparation time these require.

Respondents stated they are more comfortable in settings where an interpreter is in attendance (e.g., examinations) but less comfortable when they need to proceed on their own before a judge.

Translation, filing, and availability of documents and the evidence

All respondents strongly emphasized that barriers exist when it comes to documentation.

Indeed, most of them must take it upon themselves to translate the documents they need to submit to the court which significantly increases their workload. For Crown counsel, this challenge is especially pronounced when it comes to disclosing evidence, even though there is no obligation to do so under the *Criminal Code*. When evidence in English is deemed essential to the case, Crown counsel may decide to translate the documents depending on how they will be used in order to comply with the official language(s) of the proceedings. In fact, some defence lawyers stated this undertaking was an ethical duty. A number of respondents also pointed out the potential delays associated with the Crown choosing to disclose evidence in French. Some Crown counsel explained their office does not have enough resources for these tasks to be delegated to someone else (to a Francophone legal assistant, for example) which can contribute to this delay.

Another major barrier concerns the filing and availability of documents and courtroom forms in French. Both Crown counsel and defence lawyers reported challenges when it comes to submitting documents in French to the clerk and, as a result, must translate these documents in English, even when said documents will be presented in French in the courtroom. Others also reported having to translate document templates before filling them out.

Finally, respondents complained about the lack of case law available in French which requires them to ensure its translation if they deem it necessary to do so, e.g., when drafting briefs, presenting arguments, and making final submissions. However, the *Criminal Code* does not set out any obligation to submit cited case law in French.

Interpretation

Nearly all respondents indicated they are satisfied with the quality of interpretation services, with one single respondent stating that the quality greatly varied depending on the interpreter (excellent to fair).

For now, the real challenge remains having access to interpretation and the delays associated with this service. Several respondents stated it was difficult to quickly get an interpreter into the courtroom if the request had not been made ahead of time. This ties back to the issues mentioned earlier (see section 3.2 on additional tasks). Due to the lack of available interpreters, some lawyers have in the past had no choice but to ensure last-minute courtroom interpretation services themselves.

Consecutive interpretation prolongs proceedings and increases their complexity and costs, both for the system and the accused. Respondents stated that simultaneous interpretation improved the situation, but interpretation is consecutive in criminal matters.

Preparing the evidence

Significant challenges arise in the preparation of evidence when a case proceeding in English involves Francophone victims or witnesses. Respondents stated that having no bilingual Crown counsel or lawyers involved in the case may impact the quality of the evidence and clarity of witness

testimonies. This is probably also true for cases involving witnesses and victims who speak other languages.

Even though the quality of the evidence and lack of clarity may be rectified at other stages of the process, respondents stated that it is in the courtroom where these elements matter the most. This is where the rights of the accused are directly at stake and where decisions that have major implications for them are rendered. This makes having effective access to services in French even more essential.

CHALLENGES RELATED TO THE ORGANIZATION OF JUSTICE

No additional remuneration

Respondents affirmed that there is no real financial incentive to take on cases in French and that, in fact, the system largely depends on the willingness of bilingual lawyers to do so. Yet lawyers don't always have the time or resources for the additional preparation these cases require. Furthermore, these lawyers must often travel to represent Francophone clients, which increases their workload and gives rise to logistical and time-related constraints. Despite the additional work required by cases in French, legal aid services do not provide additional remuneration. Many defence lawyers even stated they agree to take on these cases at a loss.

Coordination of stakeholders and deadlines

All respondents noted that holding a trial in French is more complex and requires greater logistics. As mentioned above, access to an interpreter may be difficult when the request is not made ahead of time. More broadly, defence lawyers and Crown counsel alike stated that coordination with the court was more demanding, in particular because of the need to mobilize a bilingual judge as well as bilingual sheriffs and clerks. However, the availability of these individuals is limited—a problem that is exacerbated in areas outside major urban centres because they require travel.

As for delays, responses vary. Some respondents affirmed it always takes longer to obtain a trial date for proceedings in French whereas others stated the delays were comparable. Once again, responses varied depending on where the proceedings take place (cities vs. rural regions).

Trials by jury or trials outside major urban centres

Lawyers also perceive trials by jury and cases outside major urban centres to be particularly complex. In fact, lawyers from rural regions must travel to Vancouver while lawyers from the city may be asked to travel to rural regions to represent Francophone clients.

Defence lawyers for their part also stated that in some cases, Crown counsel might be more inclined to settle a case to avoid the travel it requires and delays it can cause. This was brought up by defence lawyers to add nuance to their assessment of the complexity of certain specific situations.

Lack of appeals heard by the Court of Appeal and other areas of the law

Court of Appeal justices stated their court is ready to hear appeals in French with no delay. However, no appeal has been heard in French for several years. This has led to a certain frustration. Justices invest their time to maintain and improve their level of French but don't have the opportunity to use it in a professional context. This is perceived as an underutilization of bilingual resources. Some respondents reported that members in their professional entourage believe this to be a waste of

resources which is even harder to justify in the context of budgetary constraints. Consequently, the need to maintain the capacity to operate in French is then misunderstood.

While it goes beyond our scope of analysis and the area of expertise of respondents, the following point was brought up specifically by justices interviewed: in civil matters, there is practically no access to services in French, except in terms of family law. But even in that area of the law, and despite new policies, the lack of bilingual lawyers greatly hinders access to services in French.

Observations on the experience of stakeholders

- The lack of **proficiency in legal French** among several stakeholders is a major structural barrier that affects which cases they choose to take on and increases the amount of preparation needed.
- **Constraints related to documents** (translation, disclosure of the evidence, filing with the clerk, and limited access to case law and forms in French) are some of the main factors that slow down proceedings.
- **Access to human and technical resources** in French (interpreters and bilingual experts, judges, clerks, and lawyers) remains insufficient and jeopardizes the continuity of services.
- **Organizational and structural challenges** (coordinating stakeholders, delays, travel to rural regions or for trials by jury) increase the logistical demands of cases in French.
- The **lack of specific financial incentives** for handling cases in French contributes to an unequal distribution of the workload and limits the appeal of taking them on.
- The **low number** of cases in French in certain areas, in particular in the Court of Appeal and in civil matters, underscores an underutilization of bilingual resources and a failure to fully leverage the existing institutional potential.

EXPERIENCE OF JUSTICIABLES

What is the experience of justiciables? How do they react when they are informed of their language rights? What factors influence their decision and shape their experience with access to justice in French? The following trends have emerged from the accounts of defence lawyers.

REACTION TO THE TOPIC OF LANGUAGE RIGHTS

In terms of how Francophone justiciables react to the topic of language rights, respondents stated that some may initially hesitate to exercise their right because they are afraid of disrupting or prolonging the proceedings. Yet they are generally grateful, even relieved, when explanations are provided. This is especially the case for newcomers. Other people seem indifferent or have already been informed and fully expect these rights to exist in a bilingual country, even though they don't

always know what these rights entail. Surprise is apparently a common reaction, especially in trial-level courts where the accused already feels intimidated and overwhelmed by the proceedings. In some cases, there is a certain level of mistrust as to the system's real ability to administer justice in French.

For their part, Anglophones and Allophones who are informed of their language rights appear to react differently. Respondents stated that some people do not understand the significance of these rights or deem them useless, while others are quite understanding. Moreover, several respondents stated that there is an implicit acknowledgment of the principle of reciprocity in their entourage or among colleagues who say they would want to benefit from a trial in English should they ever be accused in Quebec. However, despite this understanding, they stated they felt a certain frustration among peers who view the bureaucratic requirements of exercising language rights as nothing more than a step that adds complexity and prolongs proceedings.

It is also worth noting that the justiciables' knowledge and understanding of language rights were mentioned as a barrier. Some accused simply did not know that they are entitled to a trial in French. Others wrongly believe they are not entitled to this right if they understand English. Respondents also mentioned cases where personnel, in particular those working for legal aid services, incorrectly asserted that an accused was not eligible to undergo a trial in French. That being said, respondents stated that training endeavours have been implemented to rectify these practices.

CHOOSING TO EXERCISE LANGUAGE RIGHTS

Interviews with respondents revealed the factors that explain, at least in part, the reasons why some accused decline to exercise their language rights. We will detail them in the next part. A survey of individuals who have opted for a French trial would no doubt be useful to better understand what motivated them to make this request.

Delays

This was a reason that was consistently brought up. Many respondents reported that some accused choose English to prevent delays in the proceedings, in particular when it comes to sentencing or when they want to obtain a hearing more quickly. Even though the *Criminal Code* does not guarantee the right to a bail hearing in French, respondents stated that persons held in detention or seeking to quickly be released from custody opt for English because any delay in their proceedings is seen as an immediate disadvantage. Choosing English would therefore be viewed as a way to speed up the process.

The choice of a defence lawyer

The issue of legal representation also plays a pivotal role. Several respondents stated that some accused waive their language rights in order to be represented by a particular lawyer because of this lawyer's perceived competence, area of specialization, or the relationship of trust they've built with them. In some regions, the decision to waive one's language rights becomes nearly unavoidable due to the fact there are no or very few Francophone defence lawyers.

How the system is perceived and concerns of the accused

Considerations related to institutional resources and how the system operates were also brought up. Opting for French is perceived as a departure from the “normal process” and entails additional administrative requirements. This is further complicated by a lack of available resources in French and a heightened risk of making the proceedings more complex.

As mentioned above, some accused are reluctant to exercise their rights out of fear of disrupting the proceedings or being perceived as demanding. Others fear repercussions even though they aren’t able to explicitly identify what these could be. Respondents also observed a sense of discouragement, in particular when prior experiences have led to the belief that using French unnecessarily complicated the procedures or slowed down the process. For instance, one respondent reported a situation where an accused was denied the opportunity to communicate in French with courtroom personnel.

To this category, we can also add how flexible or rigid judges and Crown counsel are perceived to be. Respondents noted that, in certain situations, they may advise a client not to opt for a trial in French. In some urban centres, the choice of language may have practical implications on how the case proceeds, in particular because judges are perceived as being less sympathetic to the defence or because Francophone Crown counsel are more intransigent in their approach. Clients may therefore be told that opting for English-language proceedings could be strategically advantageous and increase their chances of success. Inversely, in regions outside major urban centres, a Francophone client may be encouraged to opt for a French trial because it will involve a judge who travels from an urban centre. This may be regarded as being advantageous to the client. Respondents also said that if more bilingual judges were available, they might not consider these factors when selecting the language of the proceedings.

OTHER BARRIERS THROUGHOUT THE LEGAL PROCESS

In addition to the reasons noted as to why some accused waive their rights to proceedings in French, respondents also noted that Francophone accused also face greater barriers in the judicial system as a whole.

Lack of language rights during the arrest, detention, and probation

Respondents identified significant challenges concerning access to a lawyer at the time of arrest. The Brydges Line is a toll-free phone service available 24/7 for individuals who are arrested, detained, or under active investigation for a criminal offence[75]. However, it does not always provide access to a bilingual lawyer. Moreover, the directory of lawyers available to provide assistance for a case involving a death only includes two lawyers who speak French. Another major hurdle is the fact that the organization’s automated phone service is only available in English. This prevents an accused who does not understand English from using the system to reach a lawyer.

That being said, respondents pointed to detention as involving the greatest barrier. It was described as being a particularly isolating experience for an accused who does not speak English because information in French is not available. Guards generally do not speak French and make no effort to

[75] Legal Aid BC. (2026). *Brydges Line*.

accommodate persons detained. Even when police officers, in particular RCMP officers, are able to communicate in French, some respondents stated they still address the accused in English.

Several respondents also asserted that delays can be even longer for bail hearings and believe this constitutes a direct violation of the rights guaranteed under the *Canadian Charter of Rights and Freedoms*[76]. This situation is even more problematic because it can lead to the accused not understanding the consequences of the statements they make which in turn increases their risk of self-incrimination.

Respondents also stated that some probation offices outside major urban centres operate exclusively in English and do not provide effective access to services in French. This situation is especially problematic due to the importance of the discussions that take place at this stage, in particular with regards to the conditions imposed and compliance with these conditions. Accused who do not understand English are at greater risk of misunderstanding the information they are given, such as their bail conditions, or making inaccurate statements to their own detriment.

Availability of defence lawyers

The availability of defence lawyers is cited as being one of the biggest challenges and identified as a determining factor in the complexity of the process. Indeed, there is a limited pool of bilingual defence lawyers and those who are part of this pool are often overworked. Furthermore, the fact that few specialized lawyers may be available was pointed to as being one of the reasons why justiciables waive their right to proceedings in French.

Even though there is a limited pool of bilingual lawyers available, legal aid services do not offer additional remuneration for handling a case in French which exacerbates the situation. In rural regions, other factors emerge as a barrier to accessing services in French. The market is smaller and more competitive and as a result, some local lawyers are reluctant to allow Francophone lawyers from elsewhere to assist with their cases. Accordingly, some accused may be more or less pressured to choose a local Anglophone lawyer instead of a bilingual one to accelerate the proceedings.

Lastly, certain positive points were also raised. Several lawyers and Crown counsel noted the recent efforts made by legal aid services, in particular their creation of a list of bilingual lawyers and the mechanisms that have been implemented to facilitate direct referrals to these lawyers. Additionally, legal aid services now allow Francophone accused to choose their lawyer from a pool of bilingual lawyers. In other words, they are not limited to lawyers in their region, unlike what is currently the case for Anglophone accused.

The geographic barrier

Several respondents noted the lack of trials by jury in areas outside major urban centres—trials by jury in French can only be held in New Westminster or Vancouver. Lawyers acknowledge that while this method of centralizing resources may be justified, it has major repercussions for the accused. In fact, this issue was central to the responses pertaining to the complexity and cost of proceedings due to the financial and logistical burden that trials by jury in French represent for the accused outside of major urban centres.

[76] *Canadian Charter of Rights and Freedoms*, section 11*b*, part I of the *Constitution Act 1982*, constituting Schedule B of the Canada Act 1982 (UK), 1982, c. 11 [*Charter*].

Financial barriers

Respondents identified major financial challenges and pointed to the absence of financial support for travel expenses as being the main problem with the conduct of proceedings outside major urban centres. Accommodation, food, and travel expenses are generally not covered. In our interviews, there was only one reported case where the fees were covered by the court.

Moreover, respondents noted an increase in the number of accused who choose to represent themselves. In addition to making work more complicated for judges and Crown counsel, it also compromises the quality of legal representation for the accused. As a result, some accused may not be aware of their language rights or the scope of these rights because they do not benefit from legal advice. This can be explained by the fact that many accused do not have the means to retain the services of a lawyer yet are not eligible to receive legal aid services. The maximum eligible income is too low, which leaves some accused without effective access to legal representation.

The costs covered by the accused may vary depending on the situation. As stated above, the costs associated with travelling to an urban centre for a trial by jury in French (transportation, accommodations) are significant. Some respondents also noted the costs incurred by hiring a more experienced or specialized lawyer. Costs that may also increase due to the extra time required for preparing a case in French and the additional time spent in the courtroom due to interpretation.

On this point, defence lawyers clarified that they usually do not increase their rates because they are generally paid on a per-service basis. However, they also noted that these cases are not profitable because they entail additional work.

Access to information

The subject of access to information yielded conflicting observations. Some respondents stated that it is difficult to access information online while others deem it to be more accessible than ever before, in particular for individuals who choose to represent themselves. The AJEFCB website was cited as a useful resource.

However, these improvements do not benefit everyone. In rural regions, several lawyers stated they represent clients with cognitive difficulties or experiencing homelessness. In other words, clients who do not have access to the internet or a phone. As a result, the only way for them to receive information is to obtain it in person. In fact, legal aid services in French are unavailable in some regions; persons wishing to speak to a Francophone agent must do so by phone.

Respondents also noted a scarcity of information in French in the court and in courtrooms. The fact that the right to proceed in French is only communicated in English continues to pose a problem. Respondents insisted on the fact that this right should be clearly presented as such, rather than being an exceptional option. Some respondents summarized the situation bluntly: the bulk of the information is only available in English, which leaves very little margin for error for those who are not fluent in this language.

Observations on the experience of justiciables

- The experience of justiciables reveals **wide-ranging responses** to language rights: gratitude, reluctance, incomprehension, and, in some cases, suspicion or indifference depending on their linguistic profile and migration background.
- Declining French-language proceedings stems less from a refusal to exercise this right than from a **combination of structural and practical factors**, in particular delays, the availability of lawyers, organizational constraints, and strategic considerations of how the trial will proceed.
- Myriad **barriers remain throughout the legal process**, including during critical steps for which the *Criminal Code* does not provide any language rights: arrest, detention, bail hearing, probation. Indeed, access to services and resources in French is limited at these stages, exacerbating inequalities in treatment.
- **Geographic and financial barriers** also contribute to restricting the effective exercise of the right to use French, in particular due to the centralization of certain trials and the additional costs associated with travel and legal representation.
- **Access to information** is a major cross-cutting issue, with many respondents noting a lack of communication in French and a continued dependence on English-only modes of communication.
- Overall, these observations show that exercising language rights depends less on their formal acknowledgment than on the system's **real capacity to enable their effective utilization at each step of the legal process**.

Avenues for action and areas of reflection on the experience of stakeholders and justiciables

In general, respondents described a system able to offer services in French. They noted that improving access to justice in French is less dependent on creating new rights than on bolstering practical measures that enable individuals to effectively exercise these rights.

From the preceding data and observations, we have drawn conclusions and present them here as avenues for action in order to fuel reflections on access to justice in French in British Columbia.

- Bolster **bilingual human resources** throughout the legal process: detention, probation, legal aid, clerks' offices, and support services.
- Improve **coordination mechanisms** for trials in French in order to mitigate delays, reduce administrative burdens, and overcome challenges related to mobilizing bilingual resources.
- Reflect on the **financial and logistical support measures** for cases in French, specifically in rural regions or in trials by jury.
- **Reduce the dependence on *ad hoc* translation** by improving access to forms, tools, case law, templates, and legal resources in French.
- Enhance the **information available to justiciables** pertaining to language rights from the first steps of the legal process.
- Ensure **effective access to services in French** at every stage of the legal process, not only during the trial.
- Support the recruitment, retention, and networking efforts of bilingual professionals in order to **reduce the feeling of isolation for stakeholders working in French**.
- Ensure **a greater institutional recognition of the additional work** required by cases in French and consider support mechanisms that reflect this reality.

Conclusion: Solutions to enhance access to justice in French in British Columbia

Throughout the interviews, respondents noted the efforts deployed in the past few years to strengthen the bilingual capacity of British Columbia's judicial system. The leadership shown by government institutions (e.g., bilingual Crown counsel offices and legal aid services) and civil organizations (e.g., the AJEFCB) is broadly perceived as one of the driving factors of this overall positive assessment. In particular, this leadership allowed for the implementation of structural mechanisms that now serve as the pillars of the French-language criminal justice system in the province. Examples include the adoption of policies governing services in French, the creation of a team of bilingual Crown counsel, and a growing mobilization among the various stakeholders involved. Respondents also insisted on the importance of the values that drive and guide them and other stakeholders involved in the French-language criminal justice system, in particular a sustained commitment to the broad principles of access to justice in French and the vitality of official languages, as well as a genuine desire to promote language rights.

Despite the barriers that remain, most respondents consider that justice in French in British Columbia is currently functional and constantly improving. The persistent challenges now appear surmountable thanks to this leadership and shared dedication. From this perspective, the solutions they propose aim less at creating a system than at consolidating and reinforcing what has been achieved. Overall, the solutions proposed involve a combination of targeted and structural actions that aim to alter practices, increase the number of resources available, and better support those who are involved in implementing language rights. Below, we have categorized these solutions proposed by respondents into three main categories.

1. Improve access to services in French at every step of the legal process

Respondents insisted on the importance of guaranteeing effective access to services in French starting at the very first step of contact with the judicial system and thereafter throughout the proceedings.

In particular, this involves:

INFORMATION IN FRENCH AND AN ACTIVE OFFER OF SERVICES IN FRENCH

- Provide an active offer of services in French, from the arrest or first point of contact with authorities.
- Ensure communications, automated messages, and information services are available in French (phone systems, information materials, service counters, signage in waiting rooms, websites, etc.).

- Provide information in French drafted in a clear, accessible language, in particular for vulnerable clients or those with limited access to technology.

COURT DOCUMENTATION AND OPERATIONS

- Communicate language rights in both official languages.
- Provide the possibility of submitting documents in French to the clerk.
- Conduct proceedings in French at every stage of the process, including during bail hearings and sentencing hearings.
- Make available truly bilingual forms.
- Ensure that signage, websites, and information tools are entirely bilingual (courthouses, detention facilities, police stations).

MEANINGFUL ACCESS TO SERVICES

- Improve accessibility to services in rural regions, in particular through an increase in the number of bilingual lawyers.
- Implement measures mitigating the financial, logistical impacts of proceedings in French and associated delays.
- Acknowledge the impact of transportation challenges affecting justiciables.

2. Bolster the bilingual capacity of the justice system

The lack of bilingual resources remains one of the main challenges noted by respondents, especially outside major urban centres.

Respondents proposed the following:

BILINGUAL RECRUITMENT AND HUMAN RESOURCES

- Ensure that bilingualism plays a greater role in the criteria for hiring.
- Recruit judges, justices, Crown counsel, clerks, and members of support personnel able to work in French.
- Pursue institutional efforts aiming to normalize the delivery of services in French.

TRAINING AND DEVELOPMENT OF COMPETENCIES

- Ensure a greater offer of French language training for judicial personnel, including clerks, sheriffs, and other stakeholders.
- Implement better mechanisms pertaining to the training, certification, and supervision of interpreters.
- Increase support and financial incentives for taking part in training.

PRACTISING FRENCH IN A PROFESSIONAL CONTEXT

- Multiply the opportunities to practise French in a real legal context.
- Implement strategies for reducing linguistic insecurity and increase the linguistic ease of those using French in their professional communications and in judicial proceedings.

3. Support and promote the exercise of language rights

Respondents noted that language rights should be better understood, better supported, and fully promoted within the justice system.

Some solutions proposed:

AWARENESS AND MOBILIZATION

- Organize activities to raise awareness of language rights among justiciables and the general public.
- Foster awareness among Anglophone stakeholders about language rights and the obligations arising from these rights.
- Provide support for community-driven initiatives and training activities available outside government institutions.

INSTITUTIONAL AND FINANCIAL SUPPORT

- Offer incentives to encourage individuals to take on cases in French.
- Ensure a greater recognition of the additional work entailed by cases in French, in particular with regards to legal aid services.
- Increase support for Francophone community organizations that contribute to access to justice in French.

SUPPORT AND PROTECTION OF LANGUAGE RIGHTS

- Implement mechanisms for reporting violations of language rights.
- Increase the monitoring of practices and compliance with language obligations, in particular via a bilingual ombudsman or equivalent measure.

Appendix 1. Obligations pertaining to language rights

The legislative framework governing language rights in British Columbia is the result of overlapping federal and provincial laws and the development of case law. While applicable federal standards stem from the Constitution and federal legislation[77], provincial standards for their part are primarily derived from case law.

CASE LAW

Language rights for Francophone British Columbians have been shaped by the decisions rendered over the years by courts and tribunals. In fact, myriad landmark rulings rendered by the Supreme Court originated within the province's tribunals. This is especially the case for matters of criminal procedure.

***R. v. Beaulac* (1999, Supreme Court of Canada)[78]:** This decision was rendered by the Supreme Court of Canada in 1999 and marked a major milestone for how language rights in Canada are interpreted. A bilingual accused from British Columbia was found guilty of murder. Even though he requested to be tried in French, the proceedings were conducted in English. Based on section 530 of the *Criminal Code*, the Supreme Court granted a new trial before a bilingual judge and jury.

This decision established a new threshold for an accused to exercise their right to a French or bilingual trial. Indeed, the individual facing criminal charges need only indicate their language of preference to the court at the appropriate time. Since this ruling, the standard practice is to grant this request, except in the absence of subjective ties to the chosen language and an insufficient command of it[79].

***Bessette v. British Columbia* (2019, Supreme Court of Canada)[80]:** Nearly 20 years later, the Supreme Court of Canada reaffirmed and specified the language rights of accused in British Columbia set by *R. v. Beaulac*. In this case, the accused faced quasi-criminal charges related to the province's *Motor Vehicle Act*[81] and had expressed his desire to be tried in French. However, no case law had yet affirmed the right to a trial in French when a provincial offence was involved. This was because a 1731 law required that legal proceedings be conducted in English. Furthermore, the provincial law governing minor offences, such as traffic violations, made no mention of language rights. The Supreme Court concluded that when a provincial law is silent on language rights, the provision incorporating the *Criminal Code*'s summary conviction rules takes precedence, and Part XVII is therefore integrated into provincial law.

***R. v. Tayo Tompouba* (2024, Supreme Court of Canada)[82]:** The most recent decision regarding language rights in British Columbia was rendered in 2024 by the Supreme Court of Canada. *R. v.*

[77] Jurisource. (2019). *Droits linguistiques*.
[78] *Beaulac*, *supra* note 3.
[79] Chénier, I. (LOPRESPUB). (2024, 23 October). R. c. Tayo Tompouba : le juge comme « ultime gardien » des droits linguistiques de l'accusé. *Bibliothèque du Parlement – Notes de la Colline* [Chénier].
[80] *Bessette*, *supra* note 4.
[81] *MVA*, *supra* note 27.
[82] *Tompouba*, supra note 5.

Tayo Tompouba follows in the footsteps of *R. v. Beaulac* and *Bessette v. British Columbia* and serves as the final piece of a trilogy of landmark decisions on language rights in criminal trials.

In this instance, the trial of the accused was conducted in English and he was found guilty of sexual assault by the Supreme Court of British Columbia. During the appeal in the Court of Appeal, the accused stated for the first time that he had not been informed of his right to a trial in the language of his choice at first instance. The Court of Appeal rejected the appeal. However, the Supreme Court of Canada overturned the decision, clarifying that the onus was on the Crown to prove that the fundamental right to a trial in French had not been violated. Consequently, it is now the responsibility of the judge to inform the accused of this right, whether or not they are represented by a lawyer[83].

***Conseil scolaire francophone de la Colombie-Britannique v. British Columbia* (2020, Supreme Court of Canada)[84]:** This case spanned several years and concerned the application of section 23 of the *Charter*[85] regarding minority-language educational rights. The Supreme Court concluded that the province played a key role in ensuring the application of section 23 in order for the minority language to be preserved through the Conseil scolaire francophone. However, it also affirmed that English is the language of the courts in civil matters.

***Fédération des francophones de la Colombie-Britannique v. Canada (Employment and Social Development)* (2018, Federal Court)[86]:** In 2009, federal training and employment programs were transferred to British Columbia. As a result, the Francophone community lost access to services in French that had previously been available to them. The Federal Court of Appeal concluded that Canada had not met its obligation under Part VII of the *Official Languages Act*[87] (hereinafter the *OLA*) to take positive measures and not adversely affect official language communities. It ordered the end of the transfer agreement and required that any subsequent agreement provide for bilingual employment services comparable with those offered prior to 2009.

This was a landmark decision because it gave binding effect to Part VII of the *OLA*, which had previously often been regarded as being purely symbolic. It also highlighted a flaw in the legislative framework: language guarantees are at risk of disappearing when the federal government delegates services to a unilingual province. The Court of Appeal stepped in to bridge this gap, imposing a solution upon British Columbia and in doing so influenced the evolution of federal legislation, in particular through the modernization of the *OLA* in 2023.

PROVINCIAL LEGISLATIVE FRAMEWORK

In British Columbia, there is no provincial legislation recognizing the right to use French in the courts. In fact, the province has never adopted a law granting official status to French—or to English, for that matter. Accordingly, English enjoys a de facto status as the common language with no formal basis in law. No provincial law imposes the use of French in provincial institutions, except for a few specific provisions in certain statutes.

[83] Chénier, *supra* note 79.
[84] *Conseil scolaire francophone de la Colombie-Britannique c Colombie-Britannique*, 2020 CSC 13.
[85] *Charter*, *supra* note 76, art. 23.
[86] *Fédération des francophones de la Colombie Britannique c Canada (Emploi et Développement social)*, 2018 CF 530.
[87] *Official Languages Act*, RSC 1985, c. 31.

Divorce: Since December 1, 2024, section 23.2 of the federal *Divorce Act*[88] authorizes proceedings to be conducted in English, French, or in both official languages. The Supreme Court gave effect to this change, making it possible for a bilingual divorce registry to accept applications in French. This applies to proceedings brought under the *Divorce Act* but does not alter the general rule that other provincial civil cases be conducted in English[89].

Education: The *School Act*[90] implements section 23 of the *Charter*. It recognizes the right of Francophone rights-holders to French first-language education and entrusts the Conseil scolaire francophone with managing minority language schools throughout the province. As mentioned above, following *Conseil scolaire francophone de la Colombie-Britannique v. British Columbia*, the province amended the *School Act* to facilitate access to Francophone education infrastructures. These changes aim to cement the principle of "substantive equivalence" established by the Supreme Court, in particular by reducing overcrowding and travel times for students[91].

Civil and administrative: There is no law requiring a provincial trial pertaining to a civil or administrative matter to be conducted in French. In fact, a British law dating back to 1731[92] imposing English in judicial proceedings remains in effect, as affirmed by the Supreme Court in *Conseil scolaire francophone de la Colombie-Britannique v. British Columbia*[93].

Moreover, a general provision of the province's Supreme Court Civil Rules[94] established that, barring a few rare exceptions, all documents must be drafted in English. Administrative tribunals also require the documents submitted to be either drafted in English or translated into English.

Criminal and quasi-criminal: The situation is different for criminal matters. The *Offence Act* of British Columbia[95] applies the provisions of the *Criminal Code* pertaining to language rights to provincial offences. As mentioned above, the Supreme Court of Canada affirmed with *Bessette* (2019) that those accused of a provincial offence are entitled to a trial in French, even if provincial laws do not include any provisions to this effect.

PROVINCIAL POLICIES

In the absence of any formal law governing services in French, British Columbia adopted the *French Language Policy*[96] effective April 1, 2024 (an update to the policy is currently in the works). The policy provides for a gradual increase over four years in the capacity of provincial ministries to serve Francophones, and defines priority sectors such as health, immigration, economic development, and early childhood. It involves pilot projects and the targeted translation of documents, in partnership with the federal government as per the *Canada—British Columbia Agreement on French Language*

[88] *Divorce Act*, *supra* note 26.
[89] *Divorce proceedings*, *supra* note 26.
[90] *School Act*, RSBC 1996, c 412.
[91] Hudon, M.-È. (LOPRESPUB). (2020, 17 September). Assurer l'accès à une éducation de qualité aux élèves inscrits dans les écoles de la minorité. *Bibliothèque du Parlement – Notes de la Colline*.
[92] *An Act that all Proceedings in Courts of Justice within that Part of Great Britain called England, and in the Court of Exchequer in Scotland, shall be in the English Language* (G-B), 1731, 4 Geo II, c 26.
[93] *Conseil scolaire francophone de la Colombie-Britannique c Colombie-Britannique*, 2013 CSC 42.
[94] British Columbia. (2026). *Court Rules Act:* Supreme Court Civil Rules, *BC Reg 168/2009*.
[95] *Offence Act*, *supra* note 27.
[96] *Politique C.-B.*, *supra* note 23.

Services[97]. However, the policy is not enforceable; it does not create any legal recourse should a service not be available in French[98].

[97] *Canada-BC*, *supra* note 23.
[98] La Fédération des francophones de la Colombie-Britannique. (2024). *La politique des services en français en Colombie-Britannique, objectifs et impacts;* Government of British Columbia. (2024). *Politique en matière de services en français : Plan de mise en œuvre 2024-2028*; *Politique C.-B.*, *supra* note 23.

Appendix 2. Structure of the judicial system

There are three levels of courts in British Columbia: the Provincial Court, the Supreme Court, and the Court of Appeal.

Provincial Court: The *Provincial Court Act*[99] established the Provincial Court of British Columbia, the first level of court in British Columbia. Provincial court judges hear most criminal cases, approximately half of cases pertaining to family law, cases related to child protection (under the *Family Law Act*[100]), offences under provincial laws, traffic regulations, and municipal bylaws, as well as most cases involving young persons, in accordance with the *Youth Criminal Justice Act* of Canada[101].

Under the *Small Claims Act*[102] of British Columbia, this court also hears civil law disputes involving amounts ranging from $5,001 to $35,000. However, the role of the Provincial Court is limited. It does not handle divorces, the division of family property, or civil law disputes with claims of over $35,000. There are no trials by jury in a provincial court[103].

Provincial courts are located throughout British Columbia. There are over 130 Provincial Court judges who hear cases in more than 80 locations[104].

When a decision issued by the Provincial Court is appealed, the Court of Appeal or the Supreme Court of British Columbia hears the case. These two courts also have jurisdiction to hear certain cases at the trial level.

The Supreme Court of British Columbia: The *Supreme Court Act* of British Columbia established a superior court known as the Supreme Court of British Columbia which sits in various judicial districts in the province. It has broad jurisdiction in civil and criminal matters, in particular with regards to trials by jury and complex cases. It may also hear appeals from the Provincial Court and arbitrations[105].

The Supreme Court comprises 97 permanent justices, 13 associate justices, as well as several supernumerary justices[106].The justices mostly sit in 13 cities located across the province's main geographical regions[107].

Until recently, it held all French-language or bilingual criminal trials by jury in New Westminster. It now does so in Vancouver as well due to the fact that there are more French-speaking potential jurors in the region[108]. It must be noted however that an accused may request that the trial be held elsewhere. They need only apply to the Associate Chief Justice.

The Court of Appeal: The *Court of Appeal Act*[109] of British Columbia established the British Columbia Court of Appeal. This is the highest court in the province[110] and comprises 23 justices[111]. It

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[99] *Provincial Court Act*, RSBC 1996, c 379.
[100] *Family Law Act*, SBC 2011, c 25.
[101] *Youth Criminal Justice Act*, SC 2002, c. 1.
[102] *Small Claims Act*, RSBC 1996, c 430.
[103] Government of British Columbia. (2026). *Small claims - What is Small Claims Court?*.
[104] Provincial Court of British Columbia. (2026). *Judges*.
[105] *Supreme Court Act*, RSBC 1996, c. 443.
[106] The Courts of British Columbia. (2026). *Supreme Court*.
[107] The Courts of British Columbia. (2026). *Supreme Court of British Columbia*.
[108] *Directive*, *supra* note 56.
[109] *Court of Appeal Act*, SBC 2021, c. 6.
[110] *Court of Appeal*, *supra* note 51.
[111] The Courts of British Columbia. (2026). *Current & Former Justices of the Court of Appeal*.

hears appeals from the Provincial Court, the Supreme Court, and administrative tribunals. It mostly holds sessions in Vancouver but may also hear appeals in Victoria, Kamloops, Kelowna, Prince George, and Abbotsford[112].

Other tribunals: In British Columbia, some cases are heard by specialized tribunals. This is the case for the Civil Resolution Tribunal, Canada's first online tribunal. It is designed to resolve disputes involving co-ownership, small claims (amounts up to $5,000), certain traffic accidents, minor injuries, as well as disputes involving societies and cooperatives[113]. There are also other tribunals with specific mandates, such as the BC Human Rights Tribunal[114], the British Columbia Labour Relations Board[115], as well as myriad organizations handling cases involving immigration, work-related accidents, tenancy issues, etc.[116]

[112] *Ibid*.
[113] Civil Resolution Tribunal. (2026). *Choose a claim type to learn more*.
[114] BC Human Rights Tribunal. (2024). *About B.C. Human Rights Tribunal*.
[115] British Columbia Labour Relations Board. (2026). *Welcome to the Labour Relations Board*.
[116] Justice Education Society. (2020). *Tribunals*. Courts of BC: Your Guide to the BC Court System.