

**Office of the Languages Commissioner
for the Northwest Territories**



Annual Report 2017 - 2018



Use Your Language or Lose Your Language!



If you would like this information in another official language, call us.

English

Si vous voulez ces informations dans une autre langue officielle, contactez-nous.

French

Kĩspin ki nitawih̄tĩn ē nĩhĩyawih̄k ōma ācimōwin, tipwāsinān.

Cree

Tłıchq yatı k'èè. Dı wegodi newq dè, gots'o gonede.

Tłıchq

ʔerih̄t'ıs Dēne Sųłıné yatı t'a huts'elkēr xa beyáyatı theʔą ʔat'e, nuwe ts'ēn yóttı.

Chipewyan

Edı gondı dehgáh got'ıe zhatié k'èè edat'éh enahddhę nıde naxets'é edahfı.

South Slavey

K'áhshó got'ıne xədə k'é hederı ʔedıht'é yerınwę nıde dúle.

North Slavey

Jii gwandak izhii ginjik vat'atr'ıjáhch'uu zhit yınohthan jı', diıts'át ginohkhıı.

Gwich'in

Uvanittuaq ilitchurisukupku Inuvialuktun, ququaqłuta.

Inuvialuktun

Ĉ'bdı ııı^{sb}bΔ^c Λ^cLJΔı^c Δ.đbııı^cı^{sb}ı^cııı^b, ı^cđ^cıı^c.đ^c ı^cı^bcı^cı^cı^{sb}ııı^c.

Inuktitut

Hapkua titiqqat pijumagupkit Inuinnaqtun, uvaptinnut hivajarlutit.

Inuinnaqtun

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Message from the Languages Commissioner

Greetings.

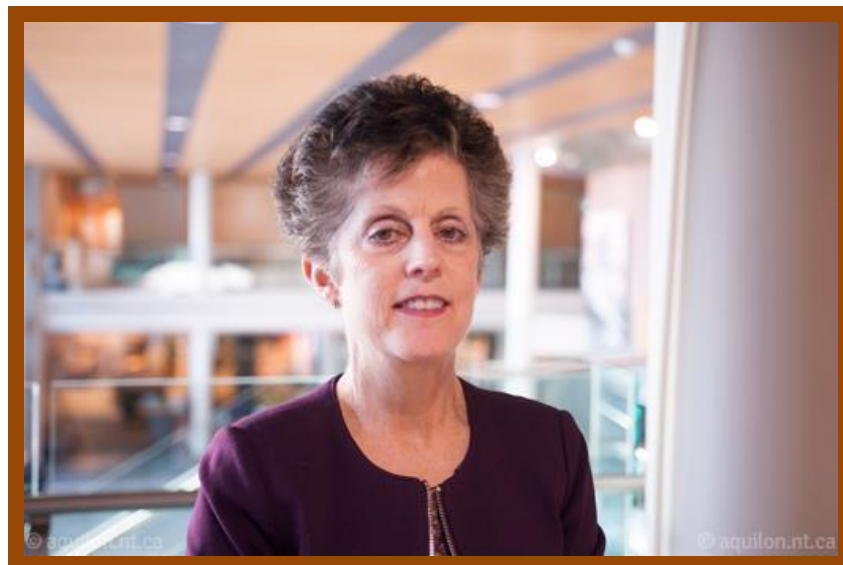
I am pleased to present my Annual Report for the 2017 - 2018 fiscal year.

The Annual Report provides an overview of the activities of the office during the 2017 - 2018 fiscal year. The report also examines how the Legislative Assembly of the Northwest Territories and the Government of the Northwest Territories have responded to recommendations contained in previous annual reports presented by Languages Commissioners. The report also provides an overview of recent court decisions and their potential impact on the provision of language services in the Northwest Territories. Most important, the report contains recommendations to be considered as we move forward.

I continue to have confidence that the Legislative Assembly, GNWT officials, stakeholders and this office can work together to ensure that the provisions of the *Official Languages Act* are met, and that the spirit and intent of the Act is honoured. I have witnessed this collaborative approach during numerous events this fiscal year, and I commend the Legislative Assembly and GNWT for those actions which honour the people, cultures and languages of the North. It is also important to remember that we must work with federal, provincial and international counterparts, and various organizations and associations, to strengthen and support languages. In this regard, this report also considers why language rights must be considered from a local, national and international lens.

Please do not hesitate to contact my Office if you have any questions or concerns about this Annual Report, or if you have a complaint or inquiry that should be directed to the Office.

Mahsi.



Overview of the *Official Languages Act* and the Office of the Languages Commissioner

In 1984, the Legislative Assembly passed the first *Official Languages Act*. Modelled after the Federal *Official Languages Act*, it had two essential purposes; the Act guaranteed equal status for English and French by members of the public using government programs and services, and the Act officially recognized the Aboriginal languages in use in the Northwest Territories. In 1990, the Legislative Assembly made major amendments to the Act to give greater status to northern Aboriginal languages. Recognizing the official status of Aboriginal languages was intended to preserve and promote Aboriginal cultures through protection of languages.

The 1990 amendments to the Act also created the position of Languages Commissioner of the Northwest Territories, to be appointed by the Legislative Assembly for a term of four years. The *Act* gave the Languages Commissioner authority to investigate complaints in regard to compliance with the *Act*, to initiate investigations as appropriate, and engage in activities related to the promotion and protection of Official Languages.

In 2001, the Legislative Assembly appointed a Special Committee on the Review of Official Languages (SCOL). In 2003 - 2004, the Government of the Northwest Territories (GNWT) considered and responded to the SCOL report. The end result was that major amendments were made to the *Act*. Some of those amendments had a direct and significant impact on the Office of the Languages Commissioner:

- Section 20(1) of the *Official Languages Act* contained a provision giving the Languages Commissioner a broad mandate, including taking steps to ensure the promotion and preservation of Official Languages. This promotional role was removed, and the position of Languages Commissioner was narrowed to that of an “ombudsman type” role. That is, the role of the Languages Commissioner became one of ensuring compliance with the *Act* through investigating complaints, handling inquiries, and initiating investigations where appropriate.
- The role of promoting and preserving Official Languages was turned over to the newly created position of Minister Responsible for Official Languages. As part of fulfilling this role, the Minister established two Boards - the Official Languages Board and the Aboriginal Languages Revitalization Board. The Official Languages Board is to review the rights and status of Official Languages and their use in the administration and delivery of services by government institutions. The Aboriginal Languages Revitalization Board is responsible for reviewing programs and initiatives dealing with Aboriginal languages, and promoting and revitalizing Aboriginal languages. The role of these two boards, and whether they should be amalgamated, is currently under review.

- Before the amendments, the *Act* referred to eight Official Languages (Chipewyan, Cree, Dogrib, English, French, Gwich'in, Inuktitut, and Slavey). In the definitions section of the *Act*, "Slavey" was defined to include North Slavey and South Slavey, and "Inuktitut" was defined to include both Inuinnaqtun and Inuvialuktun. With the amendments, the *Act* now clearly identifies North Slavey, South Slavey, Inuinnaqtun and Inuvialuktun as separate Official Languages. As well, "Dogrib" is referred to by its proper name, Tłıchǰ. As such, the Northwest Territories now has eleven distinct Official Languages.

With the 2001 amendments, the Languages Commissioner now needs to be available to handle inquiries, investigate complaints, and initiate investigations of non-compliance with the Act. The Languages Commissioner now acts in a truly ombudsman like fashion, and maintains distance from the Legislative Assembly and the GNWT. This adds to the independence of the Office.

Section 35 of the *Official Languages Act* stipulates that the *Act* has to be reviewed in 2008 and ever five years thereafter. The Standing Committee on Government Operations conducted a review in 2008, which included consultation with various stakeholders. That committee tabled its report, entitled "Reality Check: Securing a Future for the Official Languages of the Northwest Territories". The report included numerous recommendations, including the development of an *Official Languages Services Act* to replace the *Official Languages Act*. No such *Act* has been implemented, and most of the recommendations from the review remain outstanding. The Legislative Assembly has indicated that it is in the process of conducting a further review.



Recommendations Previously Made by the Languages Commissioner

During the tenure of the office, Languages Commissioners have made many recommendations. Most of these recommendations have been contained in annual reports. Others can be found in special reports (i.e. the “Special Report on Privatization and Language Services” report of 2000 and “Speaking of Health - Official Languages as part of Quality Health Care in the Northwest Territories in 2008). All of these recommendations were provided to the Legislative Assembly for consideration. Typically, the recommendations were accepted by the Standing Committee on Accountability and Oversight (or Standing Committee on Government Operations). The rest were seen to be of interest, and the Committee passed motions that they be given serious consideration by the Government of the Northwest Territories, with a comprehensive report to be provided within 120 days. These Committee reports were then tabled and approved by the Legislative Assembly.

Except for the steps referred to above, there has been little concrete response by the Legislative Assembly to the many recommendations contained in annual reports and special reports of the Languages Commissioner over the years. Further, from what can be determined, there has never been a report back to the Languages Commissioner. The Special Committee on Official Languages pointed this. At page 15 of their summary report, the committee stated:

“... the Legislative Assembly has often not responded to the Commissioner’s recommendations...”

This point was reiterated by the Court of Appeal in the case of *Northwest Territories (Attorney General) v. Federation Franco - Genoise* (2008 NWTCA 06). This point has also been reiterated by each Languages Commissioner over time, with the same lack of response by the Legislative Assembly.

The continued failure of the Legislative Assembly to respond to recommendations put forth by Languages Commissioners in annual reports and special reports over the years downplays the importance of the Office, and undermines the role of the Office. It must be remembered that, the only “power” the Languages Commissioner has is to make recommendations. If recommendations are ignored, it calls into question whether the Office has any real purpose. That stated, it must be pointed out that there was a concrete and effective response to the recommendations made by the Languages Commissioner in regard to the birth registration issue (to be discussed further in this report). That is the type of response which shows what is possible when the Legislative Assembly and government agencies work towards concrete solutions to language issues and concerns. As such, it is recommended that the Legislative Assembly adopt a formal process for responding to recommendations made by the Languages Commissioner, including a time line for response.

RECOMMENDATION:

That the Legislative Assembly develops a formal process for responding, back to the Languages Commissioner, on recommendations presented by the Office. The process should include that the response be in writing, and that there be a specific time line for response.

Complaints and Inquiries

Inquiry - A simple request for information, usually related to the status or use of Official Languages, or about the *Official Languages Act*. It does not include any suggestion that a person feels he or she has been unfairly treated.

Complaint - A complaint involves a situation where a person or group feels that their language rights or privileges have been infringed or denied. They may feel that they have been treated unfairly or have been adversely affected by some policy, program, action or lack of action.

Investigation - A situation where the Languages Commissioner decides to investigate a specific situation or larger systemic issue, regardless of whether a complaint has been filed with the Office.

The Inquiry Process, established for the Office is as follows:



The Complaint Process, established for the Office is as follows:

Complaint is filed.

Is the complaint within the jurisdiction of the Languages Commissioner ?

NO

Advise Complainant that complaint is not within jurisdiction of Languages Commissioner. Refer complaint to another organization where possible and /or make practical suggestions for resolution of the issue.

YES

Languages Commissioner investigates complaint. Investigation typically involves advising Deputy Minister or head of government board or agency about the complaint. If complaint is against the Legislative Assembly, then investigation typically involves advising Speaker.

MERIT

Investigation reveals merit to the complaint.

NO MERIT

Investigation reveals no merit to the complaint.

Make recommendations to department, board or agency and provide for time to respond to recommendations. If complaint is in regard to the Legislative Assembly, recommendations are made to the Speaker.

Complainant, and the department, board or agency is advised and file is closed.

Follow up to ensure recommendations are considered. If no response, or inadequate response, Languages Commissioner may bring matter formally to the attention of the Legislative Assembly.

File is closed and responses are in the Annual Report.

Statistics for 2017 - 2018

Complaints

In the 2017 - 2018 fiscal year, the Office did not receive any complaints.

Inquiries

There were five (5) official inquiries made to the office in the 2017 - 2018 year:

Private vs. Public Sector: Of the five (5) inquiries, one (1) came from the public sector, two (2) came from Aboriginal organizations, and two (2) came from the private sector.

Official Language Involved in the Inquiry: Two (2) of the inquiries were in regard to all Official Languages. Two (2) inquiries were specifically in regard to Tłchq. One (1) inquiry was specifically in regard to French.

Location of Inquirer:

Yellowknife: 3

Behchoko: 2

Type of Inquiry:

One inquiry was with respect to numbers of complaints filed in regard to Aboriginal Official Languages. Two inquiries were regarding access to interpretation/translation services, with one of those inquiries having a focus on interpretation/translation in the health and social services field. One inquiry was in regard to language of work and one inquiry was in regard to methods of providing services to the public.

Some of the issues raised through inquiries will be discussed further in this report. It is important to note that, while the number of official complaints and inquiries is small, statistics alone do not account for all of the issues brought forward to the Office. For example, while travelling, individuals have raised issues with respect to language services in health care settings - this is a common issue of concern. They also raise concerns about the adequacy and accuracy of interpretations/translations. Also it is paternalistic, and unrealistic, to require or assume that complaints or inquiries about languages will be made through formal processes. Regardless of whether individuals bring forward their issues through a formal complaint process, their comments are important and deserve full consideration. Further, the comments can form the basis for other actions, such as initiating investigations. Common themes include:

- lack of funding for language projects
- lack of funding to participate in language conferences
- lack of education in Aboriginal languages
- concerns with regard to calibre of Aboriginal language education in schools

- lack of formal training for interpreters/translators including interpreters/translators in specific settings such as courts and health care facilities
- lack of ability to access well trained interpreters/translators
- lack of standardization of languages

Initiated Investigations

One investigation was initiated and completed this fiscal year in regard to language services at the Legislative Assembly. That report has been provided to the Legislative Assembly and it contains numerous recommendations to improve language services at the Legislative Assembly. The report focuses on the fact that Members of the Legislative Assembly are responsible to the communities they serve, and constituents need to be able to communicate with the Legislative Assembly in the various Official Languages.

It is interesting to note that this issue is not just a “Northwest Territories” issue. As one example, in 2017, the House of Commons decided to look into Indigenous interpretation in the House of Commons following a statement by a Member when interpretation and translation services were not readily available for him. It is interesting to note that some of the issues with interpretation/translation services, as cited by the chair of the Procedure and House Affairs Committee, mimic barriers cited in this jurisdiction, including physical and technological challenges. In referring the matter to committee for further study, the Speaker of the House of Commons stated that “the issue raised by the Member for Winnipeg Centre speaks to the very core of what Members need when they come to this Chamber; that is, not only to be free to speak, but also to be understood.”

This is a complicated issue, and it is hoped the investigation report will generate significant debate on how to improve language services at the Legislative Assembly.

Update - Dene Fonts in Names: Honouring Heritage

There continues to be work in regard to taking steps so that Dene fonts and diacritical marks can be included in birth registration forms. This follows a complaint in 2014 wherein a mother complained that she was unable to honour her heritage by registering her newborn baby with a name that included Dene fonts.

By way of background, officials with the Vital Statistics Registry declined to allow the mother to register a name that included Dene fonts, citing that the *Vital Statistics Act* only allowed for names composed entirely of Roman orthography. After some back and forth with Registry officials, the mother continued to be dissatisfied with their response and filed a complaint with this office in 2014. The complaint garnered national attention. In addition, in the course of dealing with this complaint, a second complainant came forward and stated that he had the same issues with the Vital Statistics Registry in 1994, but that he had long given up trying to resolve the issue.

In 2015, and after thorough investigation of these two complaints by this office, it was determined that:

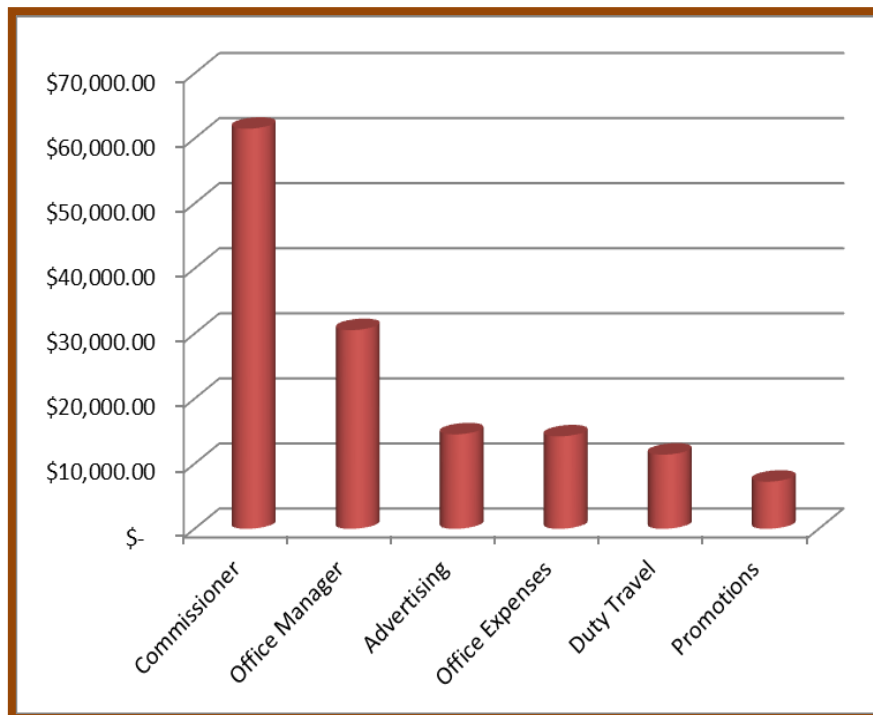
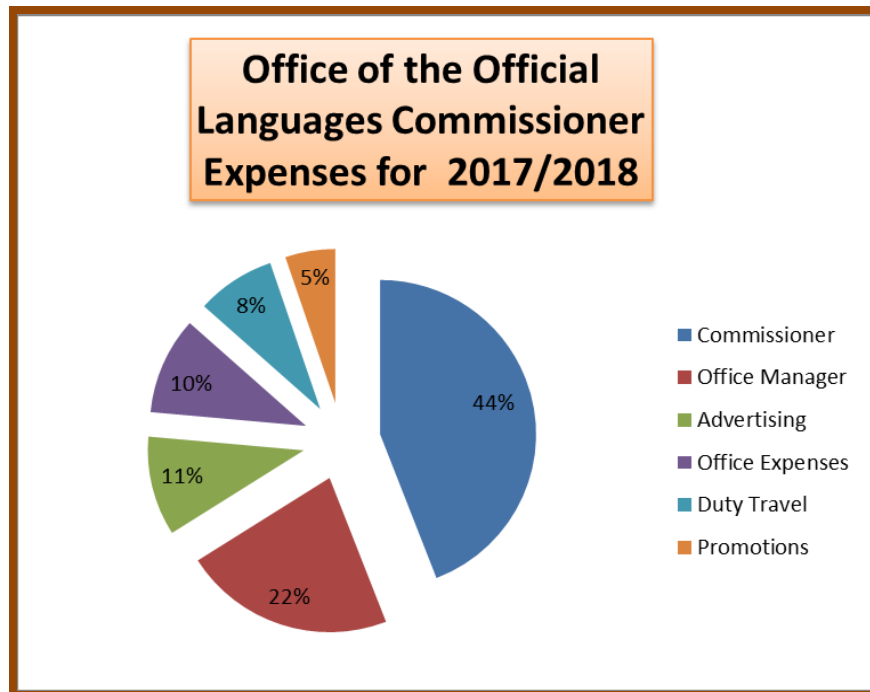
- The Northwest Territories *Vital Statistics Act* is similar to legislation in most jurisdictions in Canada, limiting the registration of birth names to names that contain Roman orthography.
- The *Official Languages Act* is quasi-constitutional legislation, and its provisions take precedence over the provisions of the *Vital Statistics Act* in so far as that *Act* may attempt to limit rights under the *Official Languages Act*.
- The Vital Statistics Registry, while located in Inuvik, serves a “region” that encompasses the whole Northwest Territories. Services to the public need to be available in all Official languages of the Northwest Territories when dealing with that office.
- “Communicating” with the public includes providing documentation to government officials and obtaining documentation from government officials, such as registering births and receiving birth certificates.
- Technical issues to registering birth names with Dene fonts have decreased over time, especially given advances such as Unicode and Dene font keyboards.
- Providing for birth registration with Dene fonts could cause some issues for parents dealing with Federal government or government officials in other jurisdictions, for purposes such as obtaining passports or licenses. This is not a reason to not proceed with providing for registration with Dene fonts, and solutions need to be found to deal with these issues on a national level. These issues are not insurmountable. One solution would be to work on double - sided identification that has Dene fonts on one side and Roman orthography on the other.

The Minister of Health and Social Services took an active role in resolving this complaint. In October 2016, an *Act to Amend the Vital Statistics Act* was introduced in the Legislative Assembly and passed, with the amendments in force effective July 1, 2017. The changes to the *Vital Statistics Act* provide for:

- removal of the requirement that a name registered for the birth of a child be written entirely in Roman orthography;
- registration under a single name, determined in accordance with a child’s traditional culture; and,
- permission for a person to amend the designation of sex on the person’s birth registration statement without undergoing gender reassignment surgery.

Budget

Total expenditures to run the Office of the Official Languages Commissioner in the 2017/2018 Fiscal year were \$ 139,452. A detailed breakdown of these expenses are highlighted in the below charts.



Highlights

Promotional Activities

There were numerous promotional activities taken with respect to the Office, including:

- radio advertisements for the Office were run on Vista radio & their website
- print advertisements were run in L'Aquilon and UP HERE magazine
- promotional materials were distributed at presentations/events & refreshed

Important Meetings/Events

There were numerous, important events and meetings attended throughout the year, including:

- Participating in numerous interviews for radio, television and print including CBC radio, CBC television, APTN, Radio Taiga, L'Aquilon, CKLB and News North. Some interviews were general in nature, and some were about current cases and issues in the media.
- Participating in various telephone meetings and webinars of the International Association of Languages Commissioners (IALC).
- Presentation to Language Coordinators (April 2017).
- Attending the Annual General Meeting and Conference of the International Association of Language Commissioners (IALC) in Cardiff, Wales (May 2017).
- Meeting with Alfred Moses, then Minister Responsible for Official Languages (September 2017).
- Attending in Tsiighetchic including a community meeting and meeting at Chief Paul Niditchie School (September 2017).
- Attending in Aklavik including a community meeting and meeting at Moose Kerr School (September 2017).
- Attending in Inuvik including a meeting with the Gwich'in Tribal Council and Inuvik Band, Aurora College students and students at E3 School (September 2017).

- Attending and presenting at Federation Franco - TeNOise AGM (October 2017).
- Attending Pan-Canadian Conference, “The Future of Linguistic Duality”, hosted by Federal Official Languages Commissioner (attended with Edmonton setting) (November 2017).
- Attending and presenting at Indigenous Languages Network Gathering (November 2017).
- Attending in Kakisa including a community meeting (March 2018)
- Meeting with, and presenting to, the Indigenous Languages and Education Secretariat staff (ECE) (March 2018)
- Meeting with Federal Official Languages Western Representative, Chantel Alarie in “Engaging the North” session (March 2018).



Recent Court Cases of Interest

International Association of Fire Fighter (IAFF), Local 999 v. Moncton (City) 2017 CanLII 20335 (NBLA)

The parties to this arbitration agreed that the City of Moncton had an obligation to provide services to the public in both English and French pursuant to the *Official Languages Act* of the province and accompanying regulations. This included firefighting services. However, the union argued that the legislation only imposed an obligation on the employer vis-a-vis the public, and that there was nothing substantive in the legislation in regard to the employment relationship between the employer and the union. More specifically, the union argued that the fact the employer employs people to provide the services in question is peripheral and does not make the legislation imposing the obligation “employment related.”

The union argued that labour arbitrators only have the authority and responsibility to enforce substantive rights and obligations of employment-related statutes. The Board found that a the obligation of the candidate to function fluently in both official languages was substantive, considerable and meaningful, and that the traits are “employment - related”.

The Board found that the requirements of the *Official Languages Act* for service in both official languages were not offensive, and were compatible with the collective agreement. The Board found the requirement was not in violation of the Collective Agreement.

Industrielle v. Mazraani Supreme Court of Canada Docket 37642

This case was involves an appeal from a decision of the Federal Court of Appeal to the Supreme Court of Canada. The matter was heard by the Supreme Court on May 16, 2018, and the Supreme Court has reserved judgement.

In its decision, the Federal Court of Appeal found that the Tax Court Judge had encouraged counsel for Industrielle and its witnesses to speak English for the most part (with the exception of technical terms) during the course of a hearing. The court found that the efforts of the judge to be “pragmatic” in finding ways around adjourning and securing interpretation services resulted in a violation of the language rights of Mazraani as well as his counsel and witnesses. The court found that there was a positive duty on the part of the judge to ensure that witnesses could speak in the official language of their choice, and found that the trial judge viewed the request of each witness as a request for an accommodation rather than a right. The court found it was not open to the judge seek a shortcut around the language rights of those involved in the proceedings, and found that the actions actually resulted in a greater delay of the proceedings. The matter was remitted back to the tax court for a new trial.

This case shows the importance placed on language rights in a court proceeding not only for parties to the proceedings, but for others involved in those proceedings. The case also stresses the importance of language rights being entrenched and having protection, and the necessity of giving due consideration to those rights.

Ewonde v. Canada (2017) FCA 112 (CanLII)

The Appellant was an inmate who commenced three actions in Federal Court. All actions had been filed in English and the Appellant's understanding of English had been supported by his counsel and others. The Appellant then moved to Ontario, where he found the same supports were not available. There were several orders and directions issued by a Prothonotary to move the actions along, with little movement by the Appellant. Eventually, the Respondent sought to dismiss the Appellant's actions, and the Appellant responded in French. The Respondent replied that if the Appellant wanted the matter to be dealt with in French, he should have commenced the motions in French. The Appellant did not reply and the Prothonotary issued a time frame within which to file responses. The Appellant did not file a response and the matters were sent to the Federal Court wherein they were dismissed.

The Federal Court of Appeal relied on the statements in *Mazraani*:

“Significantly, a person’s ability to express him or herself in both official languages does not impact such a person’s constitutional right to choose either English or French in the context of court proceedings. One’s ability to speak both official languages is “irrelevant”. In the words of the Supreme Court of Canada in *R. v. Beaulac*, 1999 CanLII 684 (SCC), [1999]1 S.C.R. 768, 173 D.L.R. (4th) 193 at paragraph 45 [Beaulac]:

In the present instance, much discussion was centred on the ability of the accused to express himself in English. This ability is irrelevant because the choice of language is not meant to support the legal right to a fair trial, but to assist the accused in gaining equal access to a public service that is responsive to his linguistic and cultural identity.”

The court also stated:

“Thus, an individual may elect to institute proceedings against the Crown in either official language, regardless of their mother tongue. An individual may also re-elect, during the course of proceedings, and the Crown will be obliged to switch languages as well, unless the Crown has established that a reasonable notice has not been given....”

The court went on to order that the Appellant could file his motions in the Official Language of his choice in reply to the Respondent's motions to dismiss his actions.

R. v. Hudnut-Pelletier & Melanson 2017 NBQB 209 (CanLII)

The Crown brought a motion in front of the Court of Queens Bench of New Brunswick for a determination of whether a previous order by a Case Management Judge designating the trial being bilingual, thus requiring a bilingual judge and jury, can be revisited on account of a declaration of a mistrial.

Justice Ferguson found that the court had jurisdiction to rehear the matter of designation of a trial as being bilingual. Justice Ferguson stated that language rights are a “constitutional right elevated much higher than substantive rights” of trial fairness and a reliable verdict.

Hacault v. R. (unreported, August 2017)

This case is an example of where the infringement of language rights resulted in a matter not going to trial.

Lawyer, Antoine Hacault, the accused, is a Francophone from the French-speaking village of St.-Pierre-Jolys in Manitoba. Hacault was issued a speeding ticket in English and further, the officer issuing the ticket spoke to him in English. The ticket was cancelled because of the failure to recognize Hacault's *Charter* rights.

Hacault told the Winnipeg Free Press:

“You expect law enforcement to be aware of their charter obligations and to obey the law - especially the charter, it's the most important law in Canada.”



The Office of the Languages Commissioner

It is imperative that the Office of the Languages Commissioner be adequately resourced. Given that the Legislative Assembly and GNWT are in times of fiscal restraint, it is important to touch on these points:

- **At present, there is no backlog of complaints.**

While some complaints are complex, such as those cited above, and require significant time to manage, the number of complaints is relatively small and they move through an established process.

- **There have been reports in the media that the position of Languages Commissioner should be full - time, as it used to be.**

In this regard, it must be remembered that there have been significant changes to the function and authority of the Languages Commissioner since 1992. In 1992, the Languages Commissioner was responsible for the promotion and preservation of Official Languages of the Northwest Territories. Those responsibilities have now shifted to the Minister Responsible for Official Languages. Given the relatively small number of complaints over many years, the position is manageable on a part-time basis. This is, of course, provided that there is adequate administrative support for the office to assist with managing complaints and office activities, such as travel and presentations. This does not appear to be an issue at present.

- **There continue to be comments that the Languages Commissioner should be Aboriginal, and other comments that the Languages Commissioner should be Francophone.**

There are, of course, good arguments to be made in this regard. However, it should be remembered that the Language Commissioner is now an ombudsman type position, designed to deal with complaints that language rights have been violated. Given this focus, the Languages Commissioner should, above all, have a strong back in research, investigating complaints and resolving issues.

- **There have also been reports that the Office of the Languages Commissioner has no authority - specifically, that the Languages Commissioner only has the ability to make recommendations.**

While in broad terms it is true that the authority of the Languages Commissioner is limited, it must be remembered that thoughtful, considered recommendations can have impact. In some respects, the power to persuade through recommendations can be more powerful than rulings and determinations. Recommendations force people to give consideration to an issue and participate in a response to concerns, this can have longer lasting, more effective impact. The issue, as already stated in this report, is the lack of response to recommendations, and there is a need to establish a procedure that will require a response by the Legislative Assembly and government officials.

It should be noted that the Legislative Assembly should revisit the needs and responsibilities of the Office of the Languages Commissioner on a regular basis to ensure adequate resources for the functioning of the Office.

RECOMMENDATION:

That the Legislative Assembly on a regular basis, reviews the structure and resources for the proper functioning of the Office of the Languages Commissioner.



Amendments to the Official Languages Act and Regulations

In the last annual report, there were numerous recommendations made to revise the *Official Languages Act*. As the *Official Languages Act* is to be undergoing an extensive review, pursuant to section 35 of the Act, it is not essential to review specific recommendations for amendment in this annual report - the hope is that an extensive review of the *Act* will open up many issues for discussion and the Legislative Assembly should not be confined by the parameters of the current *Act*. However, I would encourage the Legislative Assembly to maintain the review of the *Act* as a priority as many deficiencies have been identified.

Without repeating previous recommendations, an additional consideration has come to light in this fiscal year. In the course of dealing with an inquiry, the issue of the form of service in Official Languages was discussed. For example, if there is ability to receive a service directly, and without the need of a translator, should a community member be able to demand the service without the use of a translator? So, if the community member attends at a government office, and there is a GNWT employee in that office who could provide service in the Official Language of choice of the community member, should the community member be able to demand that the service be provided without the use of an interpreter? In other words, there should there be an onus on the GNWT to first determine if the service can be provided without the use of an interpreter/translator? This issue needs further discussion in terms of whether it is realistic. For example, all staff members in a GNWT office would not have the same background and expertise, so while one staff member may be able to provide interpretation services, the question is whether that same staff member can provide information that is accurate and helpful. On the other hand, direct service may be seen as the most comfortable for a client.

RECOMMENDATIONS:

That the Legislative Assembly, maintains as a priority the review of the *Official Languages Act*.

That in addition to numerous recommendations made by the Office of the Language Commissioner over the years in regard to amendments to the *Official Languages Act*, the Legislative Assembly should give consideration to provisions regarding the mode of service for providing language services to those who seek to access services from the GNWT.

Official Languages Policy and Guidelines

There are major issues with the Official Languages Policy and Guidelines.

This has been pointed out by sitting Languages Commissioners since the inception of the Office. The Official Languages Policy has not been updated since January 1998, and the Official Languages Guidelines have not been updated since August 1997. Further, as already pointed out in this report, there has been a review of the *Act*, and major amendments made to the *Act*, since that time.

The upcoming review of the *Official Languages Act* will be significant, and this review could impact on the Policy and Guidelines. As such, there is no point in reviewing previous recommendations regarding policies and guidelines at this point.

It is worthwhile pointing out one additional issue that came to light this year in dealing with an inquiry. Specifically, it should be noted that the Official Languages Policy and Guidelines do not contain guidelines in regard to dealing with the media. There are specific considerations that come into play when media requests are made to the Legislative Assembly and GNWT (i.e. consistency of messaging, accurate information, going through official channels of communication). However, it must also be kept in mind that Official Languages play a crucial role in dealing with the media, and are an important part of ensuring that that messaging from the government reaches a broad audience. As the Policy and Guidelines are reviewed, there should be consideration to a guideline with respect to dealing with the media.

In all, it is important that Policies and Guidelines are reviewed as part of the review of the *Official Languages Act*, and it is important to ensure that the Policy and Guidelines are supported by, and consistent with, the *Official Languages Act*. Such a review should be done in consultation with various stakeholders.

RECOMMENDATION:

That as part of the review of the *Official Languages Act*, the Legislative Assembly and GNWT, in consultation with stakeholders, review the Official Languages Policy and Guidelines to ensure that the Policy and Guidelines are supported by, and consistent with, the *Official Languages Act*.

That in addition to previous recommendations made regarding the Official Languages Policy and Guidelines, it is also recommended that the policies consider the issue of Official Languages and dealing with the media.

Language Rights as a Community, National and Global Issues

In the last annual report, it was recommended that the Legislative Assembly and GNWT deal with language rights as a national issue, and work other governments in this regard. That recommendation stands, but it is important to consider language rights as a local, national and global issue - or a so-called “glonalo” issue.

It is first, and very importantly, necessary to consider languages rights at the local level and ensure that services, projects and programs that are developed and provided meet the needs of communities in the Northwest Territories. In her Master’s thesis entitled “Entangled Resurgence: Investigating ‘Reconciliation’ and the Politics of Language Revitalization in the Oneida Nation of the Thames”, Hannah McGregor states:

“Being in the community and doing language work allowed outsiders to realize just how difficult the work is given the limited people and funding, but also how important it is to the Oneida community members there who make language work part of their everyday life - either by learning the language or empowering other learners. It also provides a way for outsiders to understand how the history of colonization and residential operates in a contemporary indigenous community”

In her paper, “Language Rights: Constitutional Misfits or Real Rights”, Denise Reaume states:

“In order to put language rights on a sure constitutional footing, we must release language policy from the grip of the instrumental and aggregative logic embedded in territorialist thinking and provide an account of the interest in language that focuses not only on the individual speaker, but on the ongoing commitment of a community of language speakers to the maintenance of their collective life in particular language. This provides the foundation upon which meaningful set of constitutional protections for language can be built...”

In other words, communities are the bedrock in the development, promotion and protection of languages. This point was made clear in a number of community meetings, wherein Chiefs and other elders expressed that languages belong to the people and it is up to the people to direct their future.

At the same time, language issues in one jurisdiction might have implications throughout the country. This was identified in the birth registration issue, and jurisdictions can learn through sharing their experiences. Further, court cases in one jurisdiction might have an impact on other jurisdictions.

The concept of language rights as a national issue appears to have gained momentum in the past several years. In December 2016, Prime Minister Justice Trudeau advised that he was proposing an *Indigenous Languages Act*. In the same month, Prime Minister Trudeau also suggested that the Federal government was looking at the possibility of making sign language Canada’s third official language. Details of these initiatives remain sketchy, and it is clear that significant work needs to be done to make any of these initiatives a reality. The government would have to establish priorities, funding and an implementation plan for any such legislation - not an easy task. The fact that details remain sketchy has caused some Members of Parliament, including

NDP MP Romeo Saganash, to be concerned that any proposed legislation must be more than just window dressing, and he is concerned that “time is running out” to move forward with new language legislation (see aptn National News May 10, 2018).

Despite these issues, this would appear to be an excellent opportunity for officials with the Legislative Assembly and GNWT to share their knowledge and experience in regard to official languages issues and legislation. Further, issues such as changes to birth registration, as previously identified in this report, necessitate work with the Federal government and other jurisdictions. If the GNWT allows Dene fonts to be incorporated into official documents, it could impact on the ability of a member of the public to receive services from the Federal government or other jurisdictions. The Northwest Territories needs to be part of this discussion.

In his address at the inaugural conference of the International Association of Languages Commissioners in May 2014, then Canadian Federal Official Languages Commissioner, Graham Fraser, stated:

“In a world in which international communication is increasing at an explosive rate, in which English has become the dominant language of scientific research and international trade, even this role is sometimes a challenge ... It is up to us to speak up for the vitality of minority languages as a key element in national identity, and for the idea that linguistic diversity is a value and not a burden.”

By considering language rights on a local, national and international level, the government will ensure that the needs of citizens of the Northwest Territories are met.

RECOMMENDATION:

That the Legislative Assembly and GNWT officials consider language rights as local, national, and global issues, and actively work with other jurisdictions in Canada, and with other nations, in the development and advancement of language rights. This includes, to the greatest extent possible, sharing experiences regarding official language legislation and issues, and becoming active participants in Federal government initiatives to create new language legislation including the proposed Federal Canadian *Indigenous Languages Act*.



Summary of Recommendations

That the Legislative Assembly develop a formal process for responding back to the Languages Commissioner on recommendations presented by the Office. The process should include that the response be in writing, with a specific time line for response.

That, the GNWT continues to take steps to ensure that amendments to the *Vital Statistics Act* providing for Aboriginal birth names can be implemented. It is understood that this includes addressing technical issues, as well as consultation within the GNWT and with other jurisdictions.

That, the Legislative Assembly review, on a regular basis, the structure and resources for the proper functioning of the Office of the Languages Commissioner.

That, the Legislative Assembly maintains, as a priority, the review of the *Official Languages Act*.

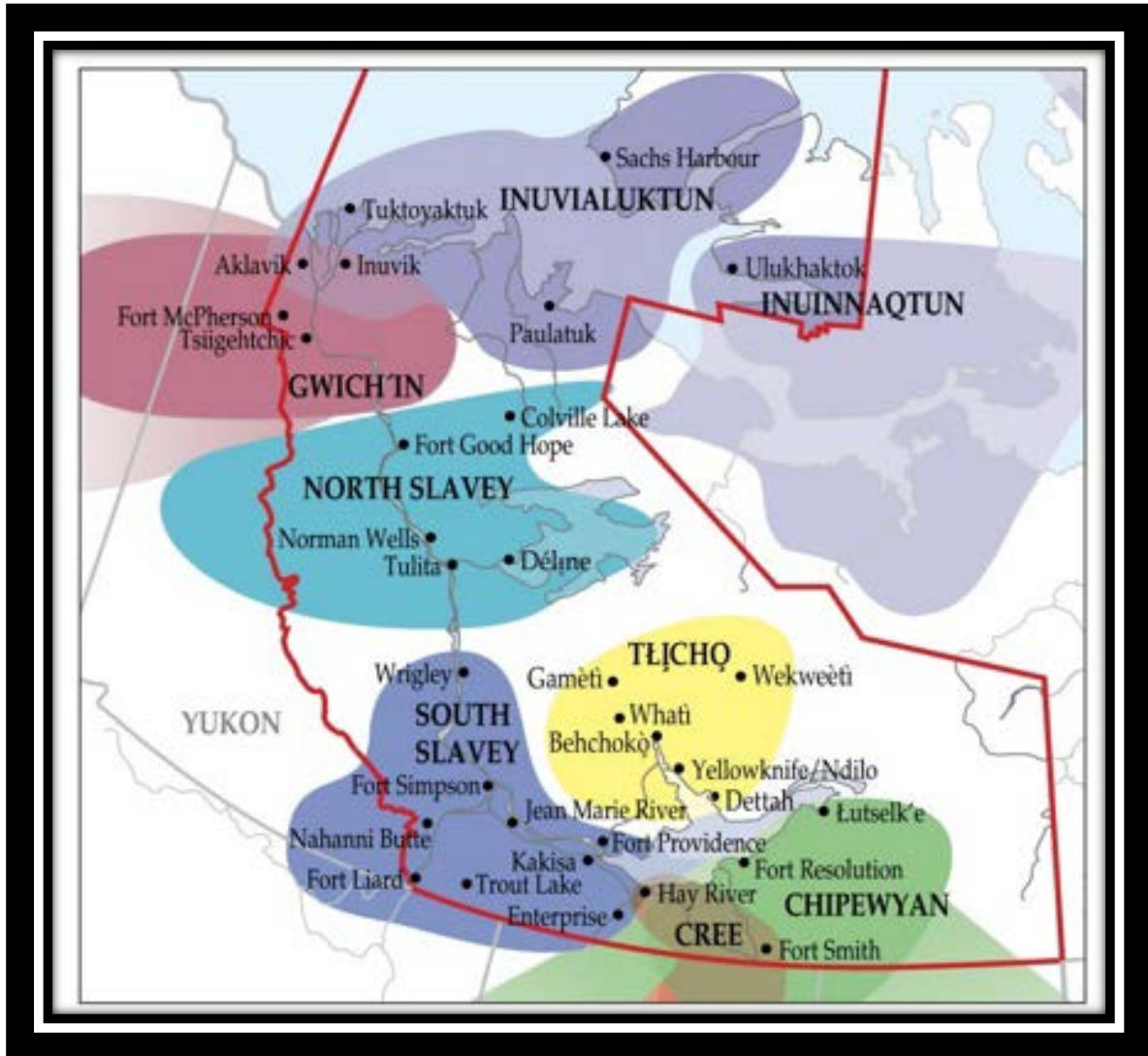
That in addition to numerous recommendations made by the Office of the Language Commissioner over the years in regard to amendments to the *Official Languages Act*, the Legislative Assembly should give consideration to provisions regarding the mode of service for providing language services to those who seek to access services from the GNWT.

In all, it is important that Policies and Guidelines are reviewed as part of the review of the *Official Languages Act*, and it is important to ensure that the Policy and Guidelines are supported by, and consistent with, the *Official Languages Act*. Such a review should be done in consultation with various stakeholders.

In addition to previous recommendations made regarding the Official Languages Policy and Guidelines, it is also recommended that the policies consider the issue of Official Languages and dealing with the media.

That the Legislative Assembly and GNWT officials consider language rights as local, national, and global issues, and actively work with other jurisdictions in Canada, and with other nations, in the development and advancement of language rights. This includes, to the greatest extent possible, sharing experiences regarding official language legislation and issues, and becoming active participants in Federal government initiatives to create new language legislation including the proposed Federal Canadian *Indigenous Languages Act*.

Official Languages of the Northwest Territories



FRENCH is mostly spoken in Hay River, Fort Smith, Inuvik and Yellowknife.

ENGLISH is spoken throughout the Northwest Territories.

INUKTITUT is mostly spoken in Yellowknife.



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