



**Office of the Languages Commissioner  
for the Northwest Territories  
Annual Report 2020 – 2021**



**Explore Our Land – Hear Our Many Languages!**







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Berries in winter – B. Gauthier

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Lazy River – V. Sanderson

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**Brenda Gauthier**  
**Languages Commissioner of the Northwest Territories**

## Message from the Languages Commissioner

Greetings,

I am honored that in January 2021, I was appointed as the Languages Commissioner of the Northwest Territories by the 19<sup>th</sup> Legislative Assembly for a term of four years. I am pleased to present the Annual Report for the 2020-2021 fiscal year.

This year's Annual Report will provide an overview of the activities of the Office during the 2020-2021 fiscal year. The report also provides an overview of a court decision that may impact the languages services in the Northwest Territories.

During this fiscal year there was a change in the Languages Commissioner, which left the office without a Commissioner for approximately three months. Shannon Gulberg ended her term at the end of September 2020, and I started my four-year term on January 11, 2021. The Northwest Territories is currently in the midst of reviewing the *Official Languages Act*. It is a fact the legislation of the Northwest Territories is strongly based off of the Federal legislation. Canada has recently developed and implemented the *Indigenous Languages Act* and appointed the Commissioner and Directors for this new office. Let's hope this review and the recent change at the Federal level strengthens our way in protecting the languages, especially the Indigenous Languages of the Northwest Territories.

I look forward to working with the Members of the 19<sup>th</sup> Legislative Assembly and the residents of the Northwest Territories to ensure that the provisions of the *Official Languages Act* are met and honoured.

Please do not hesitate to contact the Office, if you have any questions or concerns about this Annual Report. Also, do not hesitate to contact this office if you have any concerns, complaints or inquiries regarding the *Official Languages Act*.

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## 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 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. The Legislative Assembly made major amendments to the Act in 1990, 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. This position is 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. As a result, 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. 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. Plans are in place to amalgamate the two boards into one board.

- ❖ 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, Tłı̄chǫ. 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 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(1) of the *Official Languages Act* stipulated that the Act had to be reviewed in 2008. The Standing Committee on Government Operations conducted this review, 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 Standing Committee on Government Operation is currently in the process of completing the required review of the Official Languages Act as required in Section 35(1).



## Recommendations Previously Made by Languages Commissioner

During the tenure of previous Languages Commissioners, many recommendations have been made. Many 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; “Speaking of Health - Official Languages as part of Quality Health Care in the Northwest Territories” in 2008; Report on Languages Services at the Legislative Assembly in 2019). 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 to the numerous recommendations put forward by the Languages Commissioner to the Legislative Assembly in the 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 out. At page 15 of their summary report, the committee stated:

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

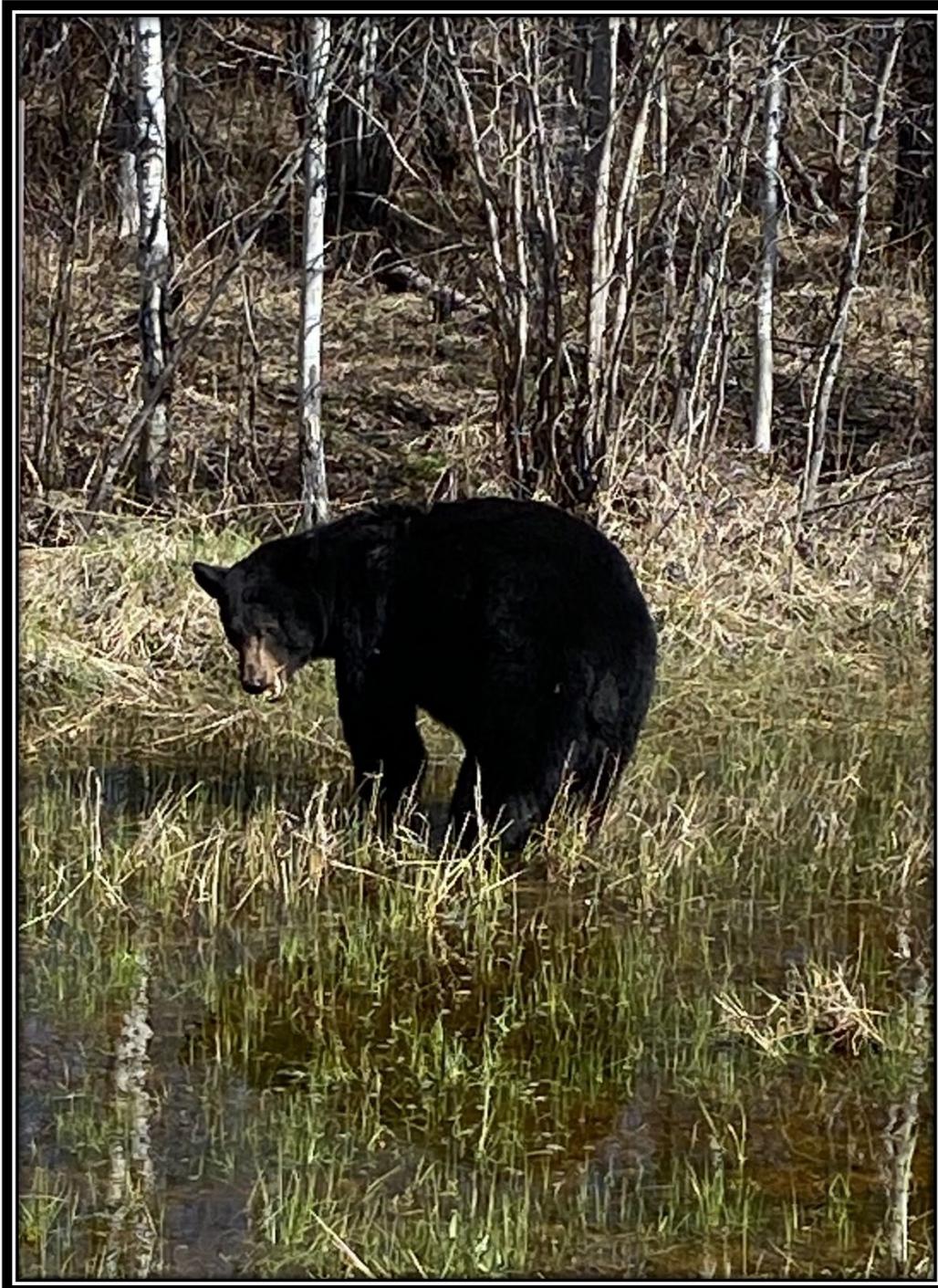
This point was reiterated by the Court of Appeal in the case of *Northwest Territories (Attorney General) v. Federation Franco - T noise* (2008 NWTCA 06). This point has also been reiterated by each Languages Commissioner over time, with the same lack of response by the Legislative Assembly.

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.

To highlight the importance of a formal process for the Legislative Assembly to respond to the recommendations made by the Language Commissioners, the recommendation will be put forward again in this report.

### **RECOMMENDATION:**

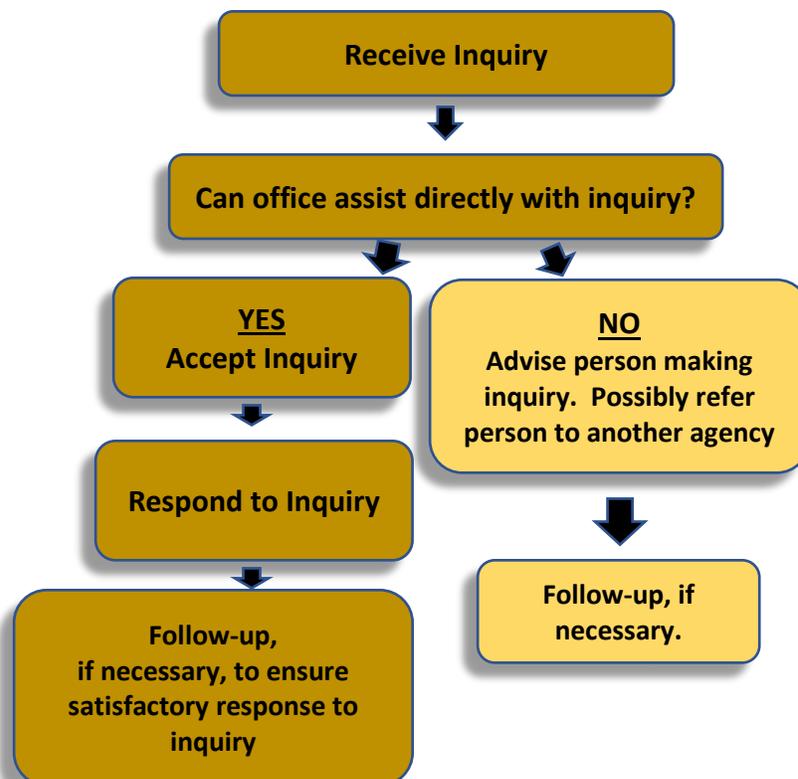
That the Legislative Assembly develops a formal process for responding, back to the Office of the Languages Commissioner, on recommendations presented by the Office. The process should include that the response be in writing, and that there be a specific time frame for response.



## 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.
- ❖ **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.
- ❖ **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.

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 complainant 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



Follow up to make sure 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



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

## Statistics for 2020 – 2021

### **Complaints**

In the 2020 - 2021 fiscal year, the Office received four (4) complaints. All of these complaints were in regard to French language services, three of the four complaints came from the same complainant. The other complaint was regarding COVID-19 screening services prior to the establishment and implementation of the COVID-19 Coordinating Secretariat. All of the complaints came from the private sector and all came from the Yellowknife region.

Two of the complaints resulted in reports and recommendations. One file from the previous report year was supported into this report period in which meetings continued between complainant and senior officials with the Department of Health and Social Services and the Northwest Territories Health and Social Services Authority to continue dialogue about systemic issues (forms, signage, active offer and language services) in health care environment.

### **Inquiries**

There was one (1) official inquiry made to the Office in the 2020 - 2021 year, however this inquiry occurred while the Languages Commissioner position was vacant and the request expired before the new Languages Commissioner could respond. There were a couple of unofficial requests that occurred from the private sector. One inquiry was seeking a title in the eleven (11) official languages; and the second was related to an assignment for a high school student.

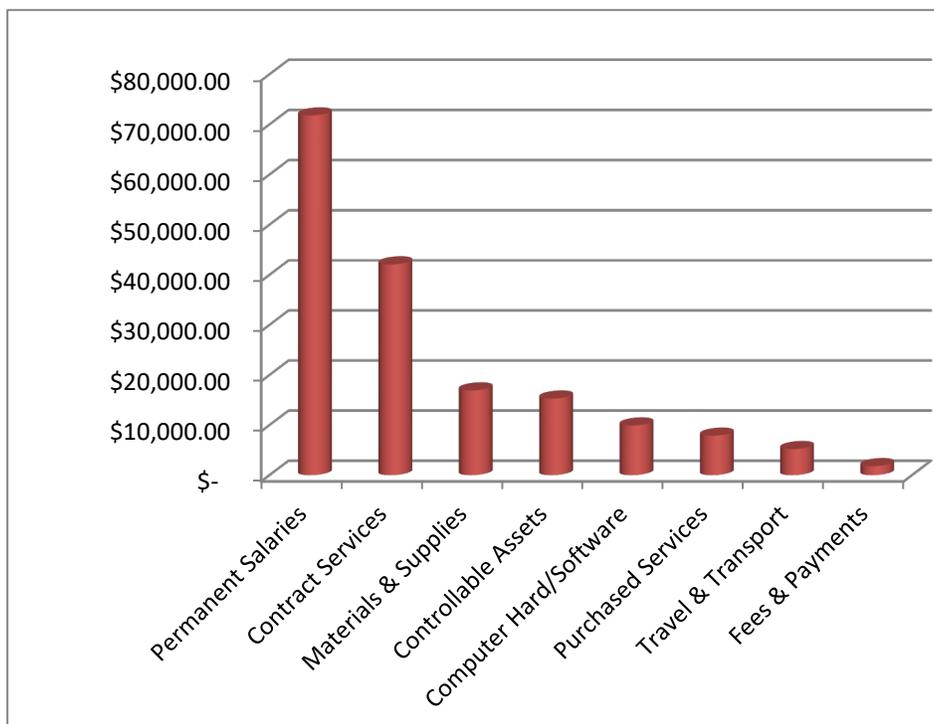
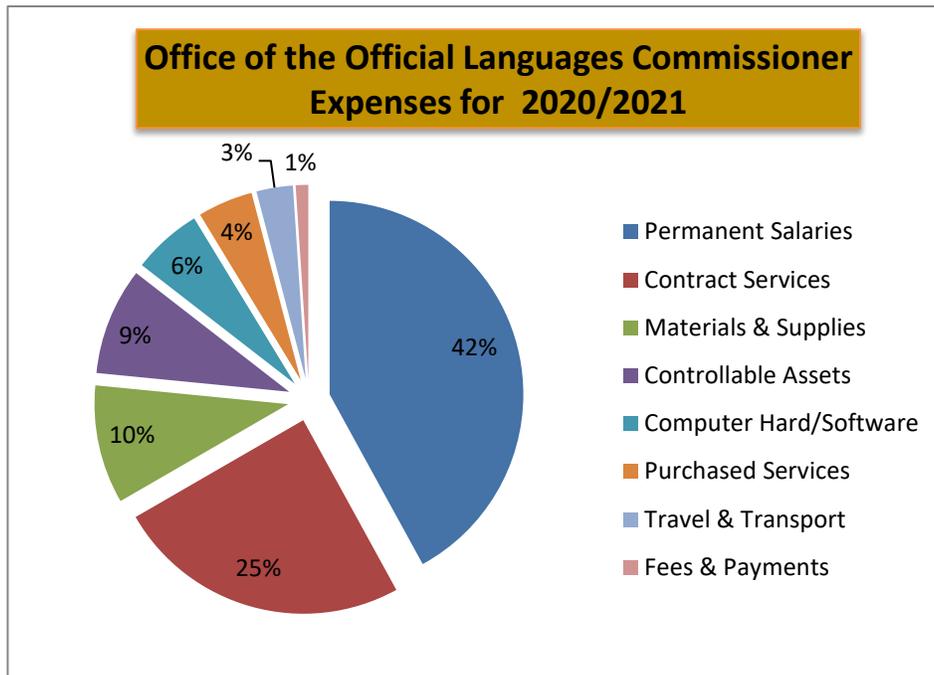
It is important to note that, while the number of official complaints and inquiries is small, statistics alone do not account for all of the issues brought forward. For example, while travelling, individuals will raise issues with respect to language services in various settings, namely health care - this is a common issue of concern, the issue of sign language provision is also mentioned. They also raise concerns about the adequacy and accuracy of interpretations/translations. It is also 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 formal complaints, 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



## Budget

Total expenditures to run the Office of the Languages Commissioner in the 2020 / 2021 Fiscal year were \$ 170,810.00. A more detailed breakdown of all the expenses are highlighted in the charts below.



## **Highlights**

### **Website**

The website for the office is in the process of being updated with information on the new Languages Commissioner, Office Manager and contact information for new location.

### **Promotional Activities**

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

- ❖ radio advertisements for the Office were run on CJCD (Vista) radio & on their website
- ❖ print advertisements were run in UP HERE magazine and ABOVE & BEYOND magazine
- ❖ promotional materials for presentations and special events were refreshed

### **Important Meetings and Events**

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

- ❖ Participating in numerous interviews for radio, television and print. Some interviews were general in nature, and some were about current cases and issues in the media.
- ❖ Languages Commissioner finished four-year term, position vacant (September 2020)
- ❖ New Languages Commissioner started four-year term (January 11, 2021)
- ❖ Participating in virtual conference on Indigenous Languages Symposium (January 25 – 29, 2021)
- ❖ Attendance in virtual meeting with Official Languages Boards (February 15, 2021)
- ❖ Participating in various video conference meetings and webinars of the International Association of Languages Commissioners (IALC).
- ❖ Participation in virtual Investigation Training (3 modules) (March 3, 2021)



## Recent Court Case of Interest

### **Conseil scolaire francophone de la Colombie-Britannique v. British Columbia (2020 SCC 13)**

This is a decision of the Supreme Court of Canada that has implications throughout Canada. While the funding of education programs in the Northwest Territories is managed differently than for provinces, the decision clearly indicates that there is an obligation on jurisdictions to ensure adequate and equitable funding of Francophone schools.

The decision results from an appeal of a trial court decision wherein a trial judge found the B.C. government had adequately funded Francophone education. The Supreme Court disagreed, and found that the trial judge had interpreted s. 23 of the Charter too narrowly and found that schools were an essential part of maintaining language and culture. The Court provided a roadmap to set out school programs and services; if the government provided a service to the same number of children in a district who spoke the majority language, then it needed to do the same for the minority language students. The Court found this meant the B.C. government needed to provide eight new schools for Francophones, including in smaller, remote communities.

The Court was clear that all students deserve the same opportunities and that it was not an acceptable argument to suggest that government policies were in an attempt to save money and be fiscally responsible. The Court found that a breach of s. 23 could not be justified based on saving money.

The B.C. Government was ordered to pay damages that had been caused by the implementation of its policies.



## Census Information

The results of the 2016 NWT Census show that Official Languages of the Northwest Territories, with the exception of English, are in danger. Some highlights of the census are:

- ❖ English remains the predominant mother tongue (first language learned during childhood still understood) in the Northwest Territories (77.5 % of the population). English is the most commonly spoken at home, of the vast majority of the population (almost 89%).
- ❖ The number of persons who indicated an Aboriginal language as their mother tongue decreased by 4.1% from 2001 - 2006. Only three of those languages (Inuinnaqtun, Gwich'in and Tłı̄chq) showed a slight increase. Cree showed a staggering 33.3% drop as mother tongue. With the exception of Tłı̄chq, having an Aboriginal language as a mother tongue is concentrated in older age groups.
- ❖ There was a slight increase in the number of persons with French as their mother tongue. French as a mother tongue increased in younger age groups.
- ❖ Language retention is characterized by the ratio of home language to mother tongue. If the ratio is greater than one, the language is considered healthy. If the ratio is less than one, the language is being eroded. With the exception of English, all Official languages have a ratio of less than one.

There are also worrisome statistics with respect to Official Languages as reported by the NWT Bureau of Statistics:

- ❖ From 1989 to 2014, the percentage of NWT residents able to speak an Aboriginal Official Language decreased in all regions throughout the Northwest Territories. In 1989, 55.6% of the population could speak an Aboriginal Official Language. By 2014, this decreased to 38.5%. The sharpest decline was in the Dehcho region, where there was a decrease from 78.6% to 56.9%. The smallest decline was in the Tłı̄chq region, where the decrease was from 96.1% to 85.9%.
- ❖ From 1989 to 2014, the percentage of Northwest Territories residents able to converse in English and French has increased. The percentage of Northwest Territories residents able to converse in Tłı̄chq remained the same. With respect to all other Aboriginal Official Languages, the percentage decreased, with the largest percentage decrease being with respect to Chipewyan and North Slavey (1.4%).

These statistics are alarming and require that immediate steps be taken to ensure the health of all Official languages. This includes ensuring that all items in the Aboriginal Language Action Plan and Strategic Plan on French Language Communication and Services be taken. All steps should be taken in conjunction with community leaders, ensuring that the needs of the public are being met and that all Official languages are healthy.

There is a NWT Census occurring at this time; we are hopeful that there will be a positive change reported in the next Census stats.

## 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. The few complaints that were either left for the new Languages Commissioner or arrived while the Languages Commissioner position was vacant have been reviewed and actioned.
- ❖ The position of Languages Commissioner has shifted from part – time to full – time with the recent appointment of the Languages Commissioner. This has permitted one full – time Office Manager to be created and filled as well.
- ❖ The Office of the Official Languages Commissioner has been relocated from Yellowknife to Fort Smith with the recent appointment of the Languages Commissioner.
- ❖ The plan is that there will be more promotion of the Office of the Languages Commissioner and the *Official Languages Act*. The Commissioner is required to be mindful of the changes in the OLA that occurred in 2004, in which the responsibility for the promotion and preservation of Official Languages shifted to the Minister Responsible for Official Languages. The Languages Commissioner’s role is now considered an Ombudsman, designed to deal with complaints that language rights have been violated.
- ❖ 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 stated, 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.

## **Amendments to the Official Languages Act and Regulations**

Over the years, Languages Commissioners have made numerous recommendations to revise the *Official Languages Act*. The *Official Languages Act* must undergo an extensive review pursuant to section 35(1) of the Act. Despite the review being past due, the review has been started by the Standing Committee on Government Operations.

The Standing Committee on Government Operations is aiming to complete the review of the *Official Languages Act* by December 2021, after broad consultation with a range of community members and organizations. COVID-19 may impact the review process as scheduled. It is also hoped that the review will be comprehensive and result in a northern approach to Official Languages that is not based on the Federal legislation. Rather, a revised *Official Languages Act* should consider and celebrate all of the Official Languages of the Northwest Territories and be designed to preserve, promote and protect all those languages.

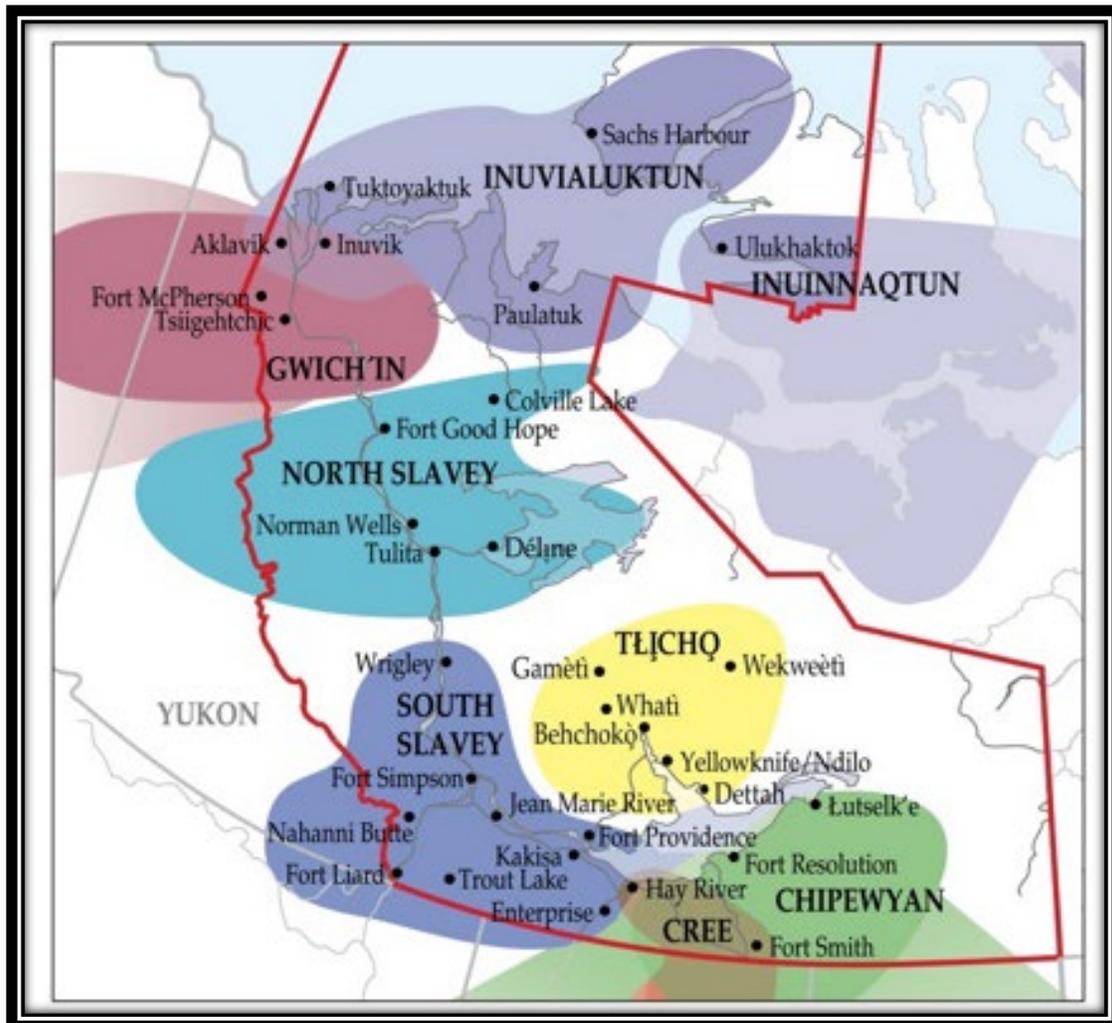
Since the Legislative Assembly has access to all previous recommendations made by the office in regard to amendments to the *Act*, they will not be repeated here.

## **Summary of Recommendations**

That the Legislative Assembly develops a formal process for responding back to the Office of 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.



## 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.



## **Contact Us**

### ***Mailing Address***

- ❖ **Office of the Languages Commissioner  
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### ***Office Location***

- ❖ **Our office is located in the back portion of the Jack Taylor Building in Fort Smith, NT, at 202 McDougal Road (use entrance from parking lot)**

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