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Canada

Ministère de la Justice
Canada

EVALUATION OF THE CONTRAVENTIONS ACT PROGRAM FINAL REPORT

**Evaluation Division
Corporate Services Branch
Department of Justice Canada**

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Erratum:

Date: July 19, 2018

Location: Section 4.2.1. Program Activities – Activities supported by the Contraventions Act Fund – Range of activities supported – Table 7: Eligible expenditures under the *Contraventions Act* Fund (2013-16).

Revisions: Table 7

- Added the City of Mississauga and its expenditures by fiscal year.
- Amendment to row “MB” for fiscal year 2014-15: \$350,000 replaces \$312,000.
- Due to the revisions in Table 7, new totals have been generated.

Rationale for the revision : The previous table did not include the City of Mississauga, which does have an Agreement signed under the *Contraventions Act*. It has been added to provide a more direct comparison with the Agreements and the Actuals reported in the Public Accounts.

Location: Section 4.2.1. Program Activities – Activities supported by the Contraventions Act Fund – Range of activities supported – Table 8.

Revisions: Table 8

- The title revised to “Actuals and Payments Based on Final Claims Received per province for the fiscal year 2014-15” from “Committed and actual expenditures per province for the fiscal year 2014-15”.
- Column headings have been revised to more accurately reflect the information being presented.
 - “Actuals (as per Public Accounts)” replaces “Committed” and annotated to include payables at year-end (PAYE).
 - “Payments Based on Final Claims Received” replaces “Actual”.
- Added the City of Mississauga and its expenditures to provide a complete depiction and reconciliation with the Public Accounts.
- Amendment to row title MB relating to the column “Difference” whereby “\$59,816” replaces “\$21,816”.
- Due to the revisions in Table 8, new totals have been generated.

Rationale for the revision : To more accurately reflect the information being presented.

Location: Section 4.3. Performance – Efficiency and Economy – Cost Effectiveness of the Program – Contraventions Act Fund.

Revisions: Table 11

- The row title “Actual” reported under Contributions was amended to “Actuals (as per Public Accounts)” and annotated to identify that these figures include PAYEs.
- The source of the data has been updated to read “Public Accounts and the Financial System”.

Rationale for Revision: To correctly identify source of data.

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EXECUTIVE SUMMARY

The Department of Justice Canada initiated the evaluation of the *Contraventions Act* Program to assess its relevance and performance over a three year period, from 2013-14 to 2015-16. In addition to meeting requirements contained in the 2009 federal *Policy on Evaluation*, this evaluation is directly linked to the broader accountability process related to the *Roadmap for Canada's Official Languages 2013-2018*.

Parliament adopted the *Contraventions Act* to establish a ticketing system that could be used to enforce certain federal statutory offences designated as contraventions. This system is expected to better reflect the distinction between criminal offences and regulatory offences and to alter or abolish the consequences in law of being convicted of a contravention. Justice Canada also established the *Contraventions Act* Fund to support the implementation of the *Contraventions Act* in a manner consistent with all applicable constitutional and legislative language rights. This evaluation covers both the Act and the Fund.

The methodology used to conduct this evaluation included a review of relevant documents, as well as administrative and financial data. It also included interviews with a wide range of key informants from federal, provincial, and municipal departments; ministries; enforcement agencies; enforcement officers; court managers; prosecutors; and other stakeholders.

Key findings from the evaluation are as follows:

1. Program Relevance

The evaluation confirms that the *Contraventions Act* Program is aligned with federal priorities and contributes to the strategic goals of the Department of Justice. It provides a much-needed tool that supports the work of enforcement officers, and ensures that statutory offences designated as contraventions are enforced in a fair and consistent manner. The Program is also well positioned to support upcoming legislative initiatives and changes, which could include, for example, the legalization and regulation of marijuana in Canada.

Considering more specifically the *Contraventions Act* Fund, evaluation findings confirm the central role that it assumes in ensuring that the enforcement of federal contraventions is being done

in accordance with all applicable language rights. For as long as the *Contraventions Act* will be enforced using provincial schemes, it can be safely assumed that the Fund will be required. However, while confirming the relevance of the Fund, evaluation findings have found no substantive rationale for leaving the Fund within the *Roadmap for Canada's Official Languages*.

Evaluation findings also indicate that the relevance of the Program is weakened by two systemic shortcomings. First, the fact that the Act is still not operational in Newfoundland and Labrador, Saskatchewan, and Alberta represents a significant flaw. Canadians who are alleged to have contravened a federal statutory offence designated as a contravention continue to be exposed to uneven treatment based on the location where the alleged offence occurred. This is not compatible with the proper application of the rule of law and a departmental strategy to effectively address this significant issue does not appear to be in place.

Second, evaluation findings indicate that the current scope of offences designated as contraventions should be broadened. There are still too many offences that are not appropriately enforced because officers lack the proper tool to do so. While each department responsible for the federal acts that are covered by the *Contraventions Act* must participate in reviewing the scope of offences included, the Department of Justice has a leadership role to play to ensure that the Act can achieve its expected outcomes.

2. Performance – Effectiveness

The evaluation confirms that an increasing number of offences are being enforced using the ticketing system provided by the *Contraventions Act*. The growth has been particularly significant in the Maritimes. Overall, enforcement officers appear to have access to the training and the tools they require to proceed with the issuance of contravention tickets, but evaluation findings confirm that having to deal with prosecution systems that vary from one province to the next does raise some challenges for federal enforcement authorities. The evaluation also points to the need for appropriate procedures to ensure that fines are being paid, and for fine levels to be reviewed and updated as needed.

As it relates more specifically to the Fund, the evaluation indicates that current agreements have allowed participating provinces to put in place the measures required to ensure that all applicable language rights are upheld during the enforcement and processing of federal contraventions.

The experience gained to date with the Program confirms that it is having positive impacts on key stakeholders:

- Enforcement officers have access to a critical tool that supports their work. There was consensus among officers consulted as part of this evaluation that the ticketing system constitutes an essential tool. In particular, it allows them to use the summary conviction process when the circumstances call for this approach, and not because they have no other viable option.
- To the extent that the Act is operational, it allows Canadians to be treated in a fair and consistent manner that adequately reflects the nature of the offence they are alleged to have contravened. By extension, however, the process used for offences that have occurred in provinces where the Act is not operational continues to expose Canadians to a process that is largely inadequate and unfair.
- The court system also benefits from having the *Contraventions Act* operational. A limited number of tickets are currently being challenged, and all the remaining offences can be enforced without any involvement from the court system. This is particularly important considering the challenges that the court system in Canada is facing in terms of delays and bottlenecks.

3. Performance – Efficiency and Economy

The *Contraventions Act* Implementation Management Team has negotiated new agreements with participating provinces that allow for a more consistent reporting of performance information. Reports provided by these provinces support the ongoing management of the Program, and provide important information for the purpose of evaluating the Program.

The Program continues to offer a cost-effective approach for implementing a ticketing system for federal contraventions. It is far more effective than creating a parallel federal system, which would lead to significant duplication of efforts.

To date, the Program has only used a portion of the funds that have been allocated to it. Until the full implementation of the Act is achieved, it is difficult to assess the extent to which the annual allocations are adequate. In the meantime, however, the Program has only been using between 41% and 60% of its allocated funds.

At the time of this evaluation, there were no viable alternatives to the *Contraventions Act* ticketing system. Unfortunately, a number of federal departments are now focussing their attention on the

Administrative Monetary Penalties (AMP) scheme¹, in the hope that it can replace the *Contraventions Act* ticketing system. According to interview respondents, this is occurring because these departments fear that the Act will never be operational throughout Canada. While there are circumstances where the AMP scheme is adequate and should be encouraged, it was never meant to replace the ticketing system found in the *Contraventions Act*. Both schemes are different in nature and apply to distinct circumstances. This trend further supports the urgent need to make the implementation of the Act in all provinces a departmental priority.

¹ AMPs are “autonomous systems that create an administrative procedure to ensure compliance through civil penalties,” and which are particularly well suited for “regulated fields that require a high level of expertise or where traditional sanctions... do not ensure full compliance.”

1. INTRODUCTION

This document constitutes the final report of the Evaluation of the *Contraventions Act* Program (also referred to as the Program). Parliament adopted the *Contraventions Act* in 1992 to establish a ticketing system that could be used to enforce certain federal statutory offences designated as contraventions.² This system is expected to better reflect the distinction between criminal offences and statutory offences and to alter or abolish the consequences in law of being convicted of a contravention.

1.1. Context for the Evaluation

In addition to the requirements contained in the 2009 federal *Policy on Evaluation*,³ this evaluation is directly linked to the broader accountability process related to the *Roadmap for Canada's Official Languages 2013-2018*. This horizontal initiative offers \$1.12 billion in financial support to 14 federal partners for the implementation of 28 initiatives supporting education, immigration, and official language minority communities (OLMCs). The *Contraventions Act* Program is one of these initiatives, as it provides financial assistance to participating provinces to “bridge gaps in bilingual service delivery, particularly when they undertake proceedings on behalf of the federal government pursuant to the *Contraventions Act*.”⁴

To date, Justice Canada has completed a number of evaluations related to the *Contraventions Act* Program. In particular, the *Contraventions Act* itself was evaluated in 2010,⁵ while the *Contraventions Act* Fund (which specifically addresses official languages requirements) was last

² For the purpose of this report, “statutory offences” include all offences established by law or regulation.

³ At the time that this evaluation process was launched, the 2009 *Policy on Evaluation* was still in effect. The federal government rescinded the policy on July 1, 2016, and replaced it (on the same day) with the 2016 *Policy on Results*. For the purpose of this evaluation, the *Policy on Evaluation* remains the applicable reference.

⁴ Government of Canada. (2013). *Roadmap for Canada's Official Languages 2013-2018: Education, Immigration, Communities*, retrieved from <http://canada.pch.gc.ca/eng/1457029880818>.

⁵ Department of Justice Canada. (2010). *Contraventions Act Evaluation, Final Report*, Ottawa.

evaluated in 2012.⁶ The current evaluation of the Program is the first that covers both the Act itself, and the *Contraventions Act* Fund.

1.2. Scope and Objectives of the Evaluation

The evaluation covers the activities of the Program carried out during a period of three fiscal years, from 2013–14 to 2015–16. As indicated in the evaluation matrix (see Appendix B), the evaluation addresses the relevance and the performance of the Program, including its efficiency and economy.

The evaluation also provides a timely opportunity to document the ongoing implementation of the regime under the Act. Many partners — such as provincial governments and other federal departments — play a critical role in ensuring that this legislative tool can achieve its stated objectives. Their respective level of engagement with the Act has been documented in previous evaluations, and this report provides an updated perspective on their involvement.

Finally, it should be noted that the evaluation focusses on the implementation of the regime under the Act in the 10 provinces. As such, it does not cover the three territories, whose constitutional status and unique circumstances fall beyond the scope of this evaluation.

1.3. Structure of the Report

This evaluation report contains five sections, including this introduction. Section 2 describes the *Contraventions Act* and associated Fund, and Section 3 describes the methodology used to conduct this evaluation. Section 4 summarizes the key findings from the evaluation, Section 5 presents the conclusions, and Section 6 presents the recommendations. The description of the logic model and the evaluation matrix and data collection instruments are included as appendices to the report.

1.4. Acknowledgement

The contribution and collaboration of many individuals have made this evaluation possible. We wish to thank all of those who participated in data collection activities, provided information, and responded to inquiries.

⁶ Department of Justice Canada. (2012). *Contraventions Act* Fund for Implementation of Language Obligations Evaluation, Ottawa.

2. DESCRIPTION OF THE *CONTRAVENTIONS ACT*⁷

The passing of the *Contraventions Act* in 1992 marked a milestone in a lengthy process to establish a clearer distinction between criminal and statutory offences. The Act established the foundation of this new approach, and is directly supported by two sets of regulations. This section describes the Act, its purpose and structure, and the regulatory regime associated with it.

2.1. Historical Context

It has long been recognized that criminal offences (such as stealing or assaulting) are fundamentally different from statutory offences (such as hunting a migratory bird without a federal permit) and, as such, should be treated differently. While its scope continues to evolve, a criminal offence refers to a behaviour that is not only forbidden by law, but that also — and just as importantly — violates fundamental values generally espoused by the whole of society. In 1976, the Law Reform Commission expressed serious concerns that the chaotic assemblage and mixture of criminal and statutory offences was diluting the primary purpose of criminal law.

To address this issue, the Commission called for a clearer distinction between criminal and statutory offences: “For this the remedy is *restraint*. We must keep regulatory offences in their proper place and confine ‘real’ criminal law to its own proper job.”⁸ The Commission went on to suggest that two distinct regimes should be considered to deal with criminal and regulatory offences: “Real crimes need a criminal regime, violation a non-criminal regime.”⁹

The federal government did not act immediately on this recommendation. A decade later, in 1986, the Commission reiterated the need for a formal process to establish a distinction between criminal and statutory offences. In recommending the adoption of a new legislation — the “Infraction Procedure Act” — the Commission established the overall vision that would later be reflected in

⁷ To ensure consistency in the description of the *Contraventions Act* Program, this sub-section largely reproduces (with some adjustments) the relevant portions of the description contained in its 2010 evaluation of this Act. See Department of Justice Canada. (2010). *Contraventions Act Evaluation, Final Report*, Ottawa.

⁸ *Ibid.*, p. 17.

⁹ *Ibid.*, p. 19.

the *Contraventions Act*. The Commission essentially suggested a two-step process, which included formally classifying some statutory offences as “infractions” and establishing a separate system to process them. The Commission acknowledged the valued experience of provincial governments in dealing with regulatory offences. On that basis, it recommended that federal “infractions” be processed in a manner similar to that found at the provincial level.

During that same period, the Department of Justice initiated a process to deal with federal statutory offences. It held consultations with the Royal Canadian Mounted Police (RCMP) and a variety of federal departments that were involved in establishing and enforcing federal statutory offences (e.g., then-named Environment Canada, Fisheries and Oceans Canada, and National Defence). The Department developed a proposal that would see the establishment of a new category of offences called “contraventions” (instead of “infractions” as proposed by the Commission). The new Act, the *Contraventions Act*, would pursue three objectives:

- decriminalize minor statutory offences
- remove uncontested cases from the courts
- improve the enforcement of penalties

As a result, a new ticketing scheme was adopted with the passing of the *Contraventions Act* in 1992.

2.2. Overview of the *Contraventions Act*

The Act allows the federal government to designate federal statutory offences as contraventions, so that they can be prosecuted using a ticketing system, instead of the summary conviction process included in the *Criminal Code*.

By establishing a ticketing system, the federal government wishes to serve the interests of the court system and to limit the impact of a conviction based on a federal contravention. As stated in section 4, the purpose of the Act is:

- (a) to provide a procedure for the prosecution of contraventions that reflects the distinction between criminal offences and regulatory offences and this is in addition to the procedures set out in the *Criminal Code* for the prosecution of contraventions and other offences; and

- (b) to alter or abolish the consequences in law of being convicted of a contravention, in light of that distinction.

Before passing the Act, the summary conviction process described in the *Criminal Code* was essentially the one that enforcement authorities had to follow when enforcing a federal statutory offence. As stated in subsection 34(2) of the *Interpretation Act*:

(2) All the provisions of the Criminal Code relating to indictable offences apply to indictable offences created by an enactment, and all the provisions of that Code relating to summary conviction offences apply to all other offences created by an enactment (emphasis added), except to the extent that the enactment otherwise provides.

The passing of the Act did not create any new federal offences and it did not abolish the summary conviction process as an option for enforcing federal statutory offences. Rather, it added a new option to deal with some of these offences (those designated as contraventions), when circumstances warrant, which is expected to be simpler and more effective.

2.3. The Legislative and Regulatory Frameworks

The Act and its associated regulations cover all aspects of the contravention continuum, from the designation of a federal statutory offence as contravention, to the enforcement and prosecution of that offence, up to the consequences of a conviction. This subsection describes these various components.

Creating a Federal Contravention

The Act allows the federal government to make regulations designating federal statutory offences as “contraventions.”¹⁰ It is on this basis that the federal government passed the *Contraventions Regulations*.¹¹ This regulation lists all federal statutory offences that are to be treated as contraventions.

¹⁰ See section 8.(1) of the *Contraventions Act*.

¹¹ *Contraventions Regulations*, SOR/96-313.

The Act allows the federal government to establish the amount of the fine associated with a federal contravention.¹² That amount is systematically lower than the maximum fine an offender could face, should the offence be prosecuted by way of summary conviction. For example, according to the *Historic Canal Regulations* (adopted under the *Department of Transport Act*), “taking off an aircraft on a navigation channel” is illegal.¹³ The federal government has designated this federal offence as a contravention. Therefore, an enforcement authority may elect to issue a ticket to someone accused of violating this provision. Should the person be found guilty, they will be required to pay a fine of \$200. If, for a variety of reasons, the enforcement authority elects to proceed with the summary conviction process, then the accused could be liable to a fine of up to \$400.

At the time of this report, there were more than 1,300 regulatory provisions (some of which include more than one offence), involving 21 different federal laws and 54 sets of regulations covered under the ticketing system. Table 1 includes a listing of all federal laws containing federal offences designated as contraventions, the number of associated regulations containing contraventions, and an example of a federal contravention under each of these statutes.

Table 1: Legislations and associated regulations containing federal contraventions

Laws	Number of regulations*	Example of a contravention	Fine
<i>Canada Marine Act</i>	1	Obstruct course of ferry	\$100
<i>Canada National Park Act</i>	12	Damage an archaeological site or historical resource	\$300
<i>Canada Shipping Act</i>	5	Operate power-driven or electrically propelled vessel with more engine power than maximum specified	\$100
<i>Canada Wildlife Act</i>	1	Unlawfully destroy an animal egg	\$150
<i>Canadian Environmental Protection Act</i>	18	Quarterly report of Lead Concentration in Gasoline Produced (...) not submitted to the Minister with the required information	\$500
<i>Department of Transport Act</i>	1	Aircraft take off on a navigation channel	\$200
<i>Fisheries Act</i>	2	Possess any live fish for use as bait in the inland waters of New Brunswick	\$200
<i>Government Property Traffic Act</i>	3	Park where prohibited by sign at Schedule I airport	\$25

¹² See section 8.(c) of the *Contraventions Act*.

¹³ See paragraph 17(1)(a) of the *Historic Canals Regulations*.

Laws	Number of regulations*	Example of a contravention	Fine
<i>Migratory Birds Convention Act</i>	2	Hunt migratory game bird after killing the permitted number	\$200 plus \$50/bird
<i>National Battlefield at Québec Act</i>	1	Permitting any animal brought into the Park to be in any water in the Park	\$200
<i>National Capital Act</i>	3	Have a domestic animal at LeBreton Flats campground	\$150
<i>National Defence Act</i>	1	Enter controlled access area without pass	\$100
<i>Navigation Protection Act</i>	0	Throw any rubbish liable to interfere with navigation	\$500
<i>Non-Smokers Health Act</i>	0	Fail to inform employees and members of the public of smoking prohibition	\$500
<i>Radiocommunication Act</i>	1	Operate a radio apparatus without a radio authorization	\$500
<i>Railway Safety Act</i>	0	Enter on land on which a line work is situated	\$100
<i>Saguenay-St. Lawrence Marine Park Act</i>	1	Conduct scientific research without a permit or without authorization	\$400
<i>Telecommunications Act</i>	1	Alter markings on a telecommunications apparatus	\$500
<i>Tobacco Act</i>	0	Sell cigarettes in a package containing fewer than 20	\$500
<i>Transportation of Dangerous Goods Act</i>	0	Handle dangerous goods that are not accompanied by all applicable prescribed documents	\$500
<i>Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act</i>	1	Unlawfully ship live plant by land	\$100

* Some of the offences designated as contraventions are included in the laws themselves, and not in their regulations, explaining why some of the laws included in the table do not have associated regulations.

Enforcing a Federal Contravention

The Act does not modify who enforces federal statutory offences, but rather how enforcement authorities go about executing their respective mandates. Police officers, or any other person or body designated by law to administer any of the federal statutes listed in Table 1 continue to be the enforcement authority.

In the context of a ticketing scheme, the enforcement officer completes a ticket by including the prescribed information and serves it to the individual (or corporation) who is alleged to have

committed a contravention. That person will be faced with a number of options, which include, at a minimum, the option of pleading guilty and paying the prescribed fine, or of pleading not-guilty and requesting a trial. The obvious advantage of the ticketing model is to allow a person who does not wish to challenge the ticket to simply pay the prescribed fine. That way, only minimal time and resources are required from the court personnel to receive and process the payment. The court clerk, the prosecutor, and the presiding judge (or justice of the peace) are not involved in such a scenario.

Application of Provincial Laws

In order for the federal government to use a ticketing model to enforce federal contraventions, it needed to secure the existence and availability of such a ticketing model. To this end, the Act offers two options.

First, the Act contains a series of provisions detailing how federal contraventions could be enforced through a new federal structure. These sections of the Act cover issues such as the completion and service of tickets, the content of the ticket, the commencement of proceedings, options available to defendants, trial procedures, the evidence, and the sentencing. However, while passed with the original bill in 1992, these sections have yet to come into force.¹⁴ Implementing these sections of the Act would, in fact, require the establishment of a new federal scheme that would heavily involve provincial governments, which already have their own structure for prosecuting provincial offences. In other words, under that scenario, there would be two parallel systems that would pursue similar goals (prosecuting tickets), but through somewhat different ticketing systems.

Parliament opted for a second option. In 1996, it amended the Act to allow the federal government to use existing provincial prosecution schemes to prosecute federal contraventions. As stated in subsection 65.1(1) of the Act, “the Governor in Council may (...) make regulations making applicable (...) laws of the province (...) relating to proceedings in respect of offences that are created by a law of the province.” It is on that basis that the federal government adopted the *Application of Provincial Laws Regulations*. To date, this regulation has incorporated, for the purpose of enforcing federal contraventions, individual prosecuting schemes, currently in place in all provinces except Saskatchewan and Alberta¹⁵. Until the prosecution schemes currently applicable to these two provinces are incorporated, federal offences designated as contraventions

¹⁴ See section 86 of the Act.

¹⁵ At the time of writing, the Newfoundland and Labrador applicable scheme has been incorporated but the agreement has not yet been signed in order to allow prosecution under the contraventions regime.

that are alleged to have been committed in these two provinces can only be prosecuted using the summary conviction process.

Using existing provincial schemes to prosecute federal contraventions creates additional demands on these systems and triggers additional costs. To help manage these, the Act allows the Minister of Justice Canada to sign agreements with each province.¹⁶ These agreements relate to the administration and enforcement of the Act and cover any issue relating to the prosecution process, the enforcement of fines, as well as the sharing of fines and fees imposed as a result of the Act.

In practical terms, enforcement authorities start using a provincial ticketing scheme when both the incorporation of the provincial legislation has been completed in accordance with the *Application of Provincial Laws Regulations* and an agreement has been signed with the provincial government. In the absence of either one of these two conditions, federal offences designated as contraventions continue to be prosecuted using the summary conviction process. To date, the federal government has completed these two steps in all provinces except Newfoundland and Labrador, Saskatchewan, and Alberta (see Table 2).

Table 2: Implementation process for the *Contraventions Act*

Components	NL	PE	NS	NB	QC	ON*	MB	SK	AB	BC
Prosecution scheme incorporated	X	X	X	X	X	X	X			X
Agreement in place		X	X	X	X	X	X			X
<i>Contraventions Act</i> operational		X	X	X	X	X	X			X
Summary conviction only	X							X	X	

Note: The three territories are not included in this table, as this report focusses on provinces only.

** In Ontario, the Department of Justice Canada has also signed agreements with the City of Mississauga and the City of Ottawa for the enforcement of certain offences, particularly those occurring on airport properties. In the case of the City of Mississauga, the agreement includes funds to support the provision of services in both official languages.*

Managing the Consequences

A fundamental goal of the Act is to limit the consequences of being convicted of a federal statutory offence. As stated in section 4, the Act aims “to alter or abolish the consequences in law of being convicted of a contravention.”

One of these consequences relates to criminal records. Currently, information relating to a person who is convicted of an indictable or hybrid criminal offence in Canada ends up in a centralized

¹⁶ See section 65.2 of the Act.

database. The Canadian Police Information Centre (CPIC), located within the RCMP, is responsible for managing this database, in accordance with federal legislation, including the *Criminal Records Act*. Federal statutory offences are typically hybrid offences. This means they can either be prosecuted as a summary conviction offence or as an indictable offence, depending on the circumstances related to the offence. As a result, information relating to a person who is found guilty of a federal statutory offence is recorded in the CPIC database.

The impact of having a criminal record is significant. First, it limits employment opportunities, since a number of positions will require a criminal record check.¹⁷ Second, a criminal record limits the ability of a person to travel outside of Canada. Having been found guilty of a summary conviction offence or an indictable offence does not limit the ability of a person to obtain a Canadian passport, but certain countries have established specific requirements to limit or monitor the entry of individuals holding a criminal record.

Considering the nature of federal statutory offences designated as contraventions, the Act specifically states that “a person who has been convicted of a contravention has not been convicted of a criminal offence.”¹⁸ Therefore, the person does not end up with a criminal record.¹⁹

A second consequence relates to penalties. Federal statutes establishing statutory offences typically include a part or section that establishes the overall directives relating to penalties. Other statutes are more specific, establishing maximum amounts specific to an offence or a group of offences. The Act reduces the penalty associated with those federal statutory offences that have been designated as contraventions. First, in accordance with section 8 of the Act, the federal government may make regulations to lower the fine to be paid for a contravention prosecuted by way of a ticket. Equally as important, the Act specifically states that “a person who is convicted in a proceeding commenced by means of ticket is not liable to imprisonment.”²⁰

2.4. The Contraventions Act Fund

In a decision made in 2001, the Federal Court jeopardized the entire federal contraventions initiative. Based on a case located in Ontario, the court concluded that, as implemented at the time, the Act violated quasi-constitutional language rights established in the *Criminal Code*

¹⁷ See John Howard Society of Alberta. (2000). *Understanding Criminal Records*. Alberta.

¹⁸ See section 63 of the Act.

¹⁹ The only exception is the unlikely but possible scenario where someone was prosecuted by way of indictment and found guilty.

²⁰ See section 42 of the Act.

(sections 530 and 530.1) and in the *Official Languages Act* (Part IV). After reviewing measures taken to implement the Act in Ontario, the court concluded that the province was acting on behalf of the Government of Canada and, as such, ought to systematically and formally guarantee that any applicable federal language right is respected by the province in its dealings related to federal contraventions. Therefore, the court ordered the federal government to:

*take the necessary measures, whether legislative, regulatory or otherwise, to ensure that the quasi-constitutional rights provided by sections 530 and 530.1 of the Criminal Code and Part IV of the OLA [Official Languages Act], for persons who are prosecuted for contraventions of federal statutes or regulations, are respected in any present or future regulations or agreements with other parties that relate to responsibility for administering the prosecution of federal contraventions.*²¹

In the absence of a satisfactory response, the federal government would no longer be in a position to use provincial ticketing schemes to prosecute federal contraventions.

To preserve the contravention initiative, the federal government responded at two levels. First, it modified the *Application of Provincial Laws Regulations* to include direct references to applicable language rights. Second, it established the *Contraventions Act* Fund, allowing the federal government to financially support measures ensuring that provincial governments deliver services related to federal contraventions in a manner consistent with applicable language rights found in the *Criminal Code* and the *Official Languages Act*. At the time of this report, the federal government had been using the Fund to support linguistic measures in Nova Scotia, Prince Edward Island, Ontario, Manitoba, and British Columbia. These activities cover both judicial and extra-judicial services.²²

- *Judicial services*: The Fund has been supporting the hiring of judicial staff, including provincial court judges, justices of the peace, prosecutors, and court workers (including court monitors and interpreters).
- *Extra-judicial services*: The Fund has also been providing support for the hiring of court staff who provide extra-judicial services, particularly when it comes to counter services offered to those wishing to pay their fine or receive further information.

²¹ Commissioner of Official Languages and her Majesty, 2001 FCT 239.

²² For further information regarding the initiatives funded through the *Contraventions Act* Fund, see Department of Justice Canada. (2007). Summative evaluation of the *Contraventions Act* Fund. Ottawa, p. 28.

The Fund has provided funding for other activities, including the design and printing of bilingual offence notice forms (tickets), the translation of websites, and the development of communication signs and products.

2.5. Management and Financial Resources

The Department of Justice invests both human and financial resources toward the ongoing implementation of the regime under the Act.

In May 2009, the Innovation, Analysis and Integration Directorate (within the Policy Sector) was given the mandate to oversee the implementation of the regime under the Act, with a particular focus on the ongoing management of *Contraventions Act* agreements signed between the Department and the provincial governments where the regime is operational. The Directorate also includes the *Contraventions Act* Implementation Management Team, which consisted, at the time of the evaluation, of two legal counsel who have been supporting the ongoing implementation and management of the Act, particularly through ongoing communications and collaborations with other federal departments (and their legal services units), and provincial and municipal partners. The Team has also been responsible for all legal aspects of the implementation, providing legal services to client-departments and partners as required. The Directorate is also responsible for the management of the *Contraventions Act* Fund.

It is worth noting that the Department of Justice does not provide a direct financial contribution to provincial governments to cover expenditures related to the processing of federal contraventions. Instead, current *Contraventions Act* agreements include clauses that allow provincial governments to retain a portion of fines collected to cover these costs. Any surplus in fines collected is shared equally between the federal and provincial governments.

Table 3 includes the total financial resources allocated to the *Contraventions Act* Program during the three years covered by this evaluation. The Department allocates close to \$10 million annually to the Program, the majority of which is allocated to the contributions provided to participating provinces for the delivery of bilingual services in the context of federal contraventions. It is important to note that the amounts included in Table 3 represent the financial resources allocated to the Program, and not those actually spent; the latter analysis is included in sub-section 4.3 of this report.

Table 3: Financial resources allocated to the *Contraventions Act* Program

	2013–14	2014–15	2015–16
Operational costs *	\$781,060	\$827,426	\$781,060
Contributions**	\$9,094,900	\$9,094,900	\$9,094,900
Total	\$9,875,960	\$9,922,326	\$9,875,960

* *Operational costs include internal costs related to salaries and benefits, operations and maintenance, and other internal activities related to the Contraventions Act Program.*

** *Contributions are allocated based on agreements signed with provincial governments for the delivery of bilingual services related to federal offences designated as contraventions.*

Source: Administrative data

3. METHODOLOGY

The methodology for conducting this evaluation includes several components in order to address the evaluation questions described in Appendix B: a document and file review, key informant interviews, and site visits. The following paragraphs briefly describe these activities.

3.1. Document and File Review

The review of relevant documents and data informed all of the evaluation issues and questions. It offered a common information base for the other lines of evidence (interviews and site visits). The list of documents reviewed includes, but is not limited to the following:

- Documents related to the history of the *Contraventions Act* were reviewed. Some of these documents are public, such as studies conducted by the Law Reform Commission, whereas others are internal (e.g., briefing notes, memos). They provided critical insights on the rationale of the Act.
- A number of key legislative texts were reviewed. In addition to the *Contraventions Act* itself, along with its two sets of regulations, a number of federal laws and regulations currently covered by the Act were also reviewed. Provincial legislation on court procedures was also included.
- Current *Contravention Act* agreements, along with financial and statistical reports, were also reviewed. In some cases, provincial authorities provided additional statistical data on the number and the type of contravention tickets issued in their jurisdictions.

Additional documents were gathered throughout the data collection process, including information provided by key informants.

3.2. Key Stakeholder Interviews, Including Site Visits

Key informant interviews contributed to an in-depth understanding of the Program, the identification of successes, as well as problems and challenges, and potential solutions. Semi-structured interviews with key informants were conducted to measure the opinions, perceptions, and experience of Program stakeholders. While a number of interviews were conducted over the phone, specific site visits in Prince Edward Island and Manitoba were conducted to allow for a more in-depth understanding of the implementation of the Act. Over time, various provinces have been selected for site visits as part of the evaluation of the Program.

A total of 60 individuals were interviewed as part of these interviews and site visits. Table 4 includes the distribution of interviewees per category of Program stakeholders. A few points should be emphasized regarding these interviews:

- Since one of the fundamental purposes of the *Contraventions Act* is to assist enforcement officers in executing their mandate, particular attention is given to this category of key informants. This explains why 25 of the 60 individuals interviewed were enforcement officers. Enforcement officers are particularly well positioned to provide practical insights on the operation and efficiency of the Act, as currently implemented.
- In a number of cases, individuals who formally participated in interviews consulted some of their colleagues prior to their interview and shared these additional perspectives. For this reason, there are more than 60 individuals who contributed to this evaluation.
- When it comes to prosecuting federal offences designated as contraventions, the Public Prosecution Services of Canada (PPSC) holds that responsibility in all provinces except Ontario and Québec (where provincial or municipal prosecutors undertake that role). In previous evaluations of the Program, individual prosecutors from the PPSC participated in the key informant interviews. During this evaluation, however, only one corporate response from PPSC was provided, and no individual interviews with PPSC prosecutors were conducted. This explains the limited number of ‘Prosecution services’ interviews indicated in Table 4 – the 4 interviews from this category that were conducted were with representatives from Ontario and Québec’s provincial prosecution services. This practice of PPSC has unfortunately limited the range of insights that would have traditionally benefited the evaluation process.

Table 4: Distribution of key informant interviews

Categories of key informants	# of individuals consulted
Department of Justice Canada	4
Other federal departments (including legal service units*)	7
Provincial governments	14
Enforcement officers	25
Court personnel	6
Prosecution services	4
Total	60

* While legal counsel assigned to legal services units are employees of Justice Canada, they are included in the category of “Other federal departments” for the purpose of this evaluation.

3.3. Limitations and Mitigation Strategies

The evaluation process encountered some limitations, none of which substantially affected the validity of the findings.

- *Limited insights from prosecutors:* The views of prosecutors on the impact of the Program are important. As already noted, while some insights were provided by PPSC through a unique corporate response, this approach did not allow for probing and additional views to be gathered. This limitation was mitigated through interviews conducted with non-PPSC prosecutors, and from insights provided by PPSC prosecutors as part of previous evaluations.
- *Limited insights from provinces not participating in the Program:* No interviews were conducted with provincial representatives from provinces that are not yet participating in the Program. This was due to the fact that there are no obligations on the part of these provinces to participate in the evaluation process, and the evaluation team did not want to interfere in current negotiations being conducted with these provinces. This limitation was mitigated by conducting interviews with enforcement officers who operate in these provinces.
- *Limited data on direct interactions with Canadians:* One central objective of the *Contraventions Act* is to make a clearer distinction between criminal and regulatory offences, and to lessen the burden on Canadians who are alleged to have contravened regulatory offences designated as contraventions. The scope of the evaluation did not allow for views to be collected directly from Canadians. This was mitigated through the interviews with other key stakeholders, particularly enforcement officers and non-PPSC prosecutors, who could address questions related to the impact of the Program on Canadians.

4. KEY FINDINGS

This section presents key findings related to the Program. More specifically, it explores the relevance of the Program and its performance during the period covered by the evaluation.

4.1. Relevance

Just over 20 years ago, the federal government proceeded with the implementation of the *Contraventions Act*, whose relevance had been established through a number of studies, including those of the Law Reform Commission described in sub-section 2.1 of this report. The Act's relevance has also been confirmed through evaluation studies undertaken by the Department of the Act or of the Fund.²³ This evaluation indicates that the relevance of the Program remains as valid as ever before; however, it may be compromised by the inability of the Department to achieve a complete implementation of the Act. These findings are further described in the following sub-sections.

4.1.1. The alignment of the Act with federal priorities

The *Contraventions Act* Program continues to support one of the two strategic outcomes of the Department, which is to contribute to “a fair, relevant, and accessible Canadian justice system.”²⁴ The Department recognizes the stewardship role it plays in that regard, particularly through the establishment of a national legal framework that is expected to contribute to “a safe and just society,” and to nurture and sustain Canadians’ confidence in their justice system.²⁵

²³ Department of Justice Canada. (2007). *Contraventions Act Fund Summative Evaluation: Final Report*. Ottawa; Department of Justice Canada. (2010). *Contraventions Act Evaluation: Final Report*. Ottawa; Department of Justice Canada. (2012). *Contraventions Act Fund for Implementation of Language Obligations Evaluation: Final Report*. Ottawa.

²⁴ Department of Justice Canada. (2015). Department of Justice Canada : 2014-2015 Departmental Performance Report. Ottawa, p. 16.

²⁵ Ibid, p. 16.

The *Contraventions Act* is one component of this national legal framework. As countless federal legislation serve to clarify what Canadians can and cannot do, what they are entitled to, and what their obligations are, the *Contraventions Act* stands largely apart, as it strictly concerns itself with the actual enforcement of some of these legislative provisions. It supports an efficient legislative and regulatory enforcement process, which has long been recognized as a cornerstone of the rule of law.²⁶

While there are a number of options for prosecuting alleged offenders, the summary conviction process has long served as the predominant one for matters relating to statutory offences.²⁷ However, little doubt remains that this summary conviction process is inadequate in many scenarios involving statutory offences. For instance, the 2010 evaluation of the Act concluded that “leaving enforcement officers with no other option but to enforce federal statutory offences by way of summary conviction is immensely problematic,” as systemic barriers create strong disincentives to actually enforce these offences.²⁸ The report added:

*“Simply put, the summary conviction process seems at odds with the nature of many federal statutory offences. So, how do enforcement officers react? Often by simply not laying a charge, as made abundantly clear during interviews held as part of this evaluation.”*²⁹

Six years later, interviews with enforcement officers conducted as part of the current evaluation confirm the validity of that statement. Enforcement officers repeatedly emphasized that the ticketing system under the *Contraventions Act* is an essential component of the range of tools they require to adequately fulfill their mandate. Many acknowledged that, in the absence of a ticketing system, they would routinely elect not to enforce many of these statutory offences or turn to warnings, which have no legal strength. And while warnings are a legitimate tool to support the work of enforcement officers, they are not meant to replace, when circumstances warrant, a formal enforcement mechanism that rests on an actual legal foundation.

²⁶ See *Re Manitoba Language Rights* [1985] 1 S.C.R. 721.

²⁷ See subsection 34(2) of the *Interpretation Act* (R.S.C., 1985, c. I-21).

²⁸ Department of Justice Canada. (2010). *Contraventions Act Evaluation: Final Report*. Ottawa, p. 26.

²⁹ *Ibid*, p. 27.

4.1.2. Upcoming legislative initiatives

The relevance of the ticketing system provided by the *Contraventions Act* should also be considered in light of the current legislative priorities of the federal government. One of the most prominent initiatives being considered in that regard is the legalization and regulation of marijuana in Canada.³⁰ The government has confirmed its intention to introduce legislation in support of this goal in the spring of 2017.³¹ At the time of this evaluation, it was not yet known whether marijuana would be primarily regulated federally or provincially. In the meantime, the government has established the Task Force on Marijuana Legalization and Regulation, which is consulting with a wide range of stakeholders, based on a discussion paper that lays out some of the key considerations that ought to guide the work of Parliament.³²

The enforcement process that has accompanied, to this day, offences related to marijuana provides an illustration of the challenges that enforcement authorities often face in fulfilling their mandate. In 2010, enforcement authorities laid approximately 74,000 charges related to all types of drugs in Canada (which is typically done through the summary conviction process), and about 10% of those resulted in a guilty verdict. The remaining 90% of these charges were abandoned by the Crown, stayed or withdrawn in court, or resulted in acquittals.³³ Considering the level of effort associated with each charge laid under the summary conviction process, it is rather alarming to think that more than 65,000 of these charges did not lead to their expected outcomes. In this context, it will come as no surprise that in 2013, the Canadian Association of Chiefs of Police voted overwhelmingly in favour of reforming the enforcement system to allow “officers to have the ability to ticket people found with 30 grams of marijuana or less,”³⁴ something that would likely need to be done through the *Contraventions Act*.

To this day, the *Contraventions Act* has never been used to enforce criminal offences, and whether this will ever be done is a question that falls beyond the scope of this evaluation. Should marijuana

³⁰ Office of the Prime Minister of Canada. (2015). *Minister of Justice and Attorney General of Canada Mandate Letter*. Retrieved October 4, 2016 from <http://pm.gc.ca/eng/minister-justice-and-attorney-general-canada-mandate-letter>.

³¹ CBC. (2016). *Federal marijuana legislation to be introduced in 2017, Philpott says – CBC News*. Retrieved October 4, 2016, from <http://www.cbc.ca/news/politics/philpott-un-marijuana-legislation-legalize-1.3544554>.

³² Task Force on Marijuana Legalization and Regulation. (2016). *Toward the legalization, regulation and restriction of access to marijuana*. Ottawa.

³³ MacQueen, Ken. (2013). Why it’s time to legalize marijuana. *MacLean’s*. Retrieved October 5, 2016, from <http://www.macleans.ca/news/canada/why-its-time-to-legalize-marijuana>.

³⁴ CBC. (2013). *Canadian police chiefs propose ticket system for pot – CBC News*. Retrieved October 6, 2016, from <http://www.cbc.ca/news/canada/manitoba/canadian-police-chiefs-propose-ticket-system-for-pot-1.1335493>.

be regulated federally, its legalization could trigger the adoption of a range of statutory offences. As stated in the discussion paper published by the Task Force, one of the goals of the federal government is to:

“establish and enforce a system of strict production, distribution and sales, taking a public health approach, with regulation of quality and safety (e.g., child-proof packaging, warning labels), restriction of access, and application of taxes, with programmatic support for addiction treatment, mental health support and education programs.”³⁵

The legal framework required to support this objective may extend beyond the *Criminal Code* or the *Controlled Drugs and Substances Act*, to include a range of statutory offences related to health, transport, or commerce. The extent to which some of these offences will be designated as contraventions is something that will need to be considered in due time, but one could presume that enforcement authorities will wish to ensure that the range of tools with which they are provided are adequate to ensure the proper enforcement of these offences. As noted by the Task Force, if the new regime “is too complex or onerous for enforcement and legal production and access, there will be opportunities for organized crime to satisfy the demand through the illicit market.”³⁶

As predominant as it is, the legalization and regulation of marijuana is only one example of a legislative initiative that will continue to shape the range of statutory offences that authorities are expected to enforce, and that the *Contraventions Act* may be expected to support, when applicable.

4.1.3. The relevance of the Fund (Official Languages)

The *Contraventions Act* Fund is an essential part of the Program. In fact, without the Fund, the entire Program, in its present form, would largely collapse. This comes from the fact that, of the two options available for the implementation of the ticketing system, the federal government opted for the use of existing provincial prosecution schemes (as described in sub-section 2.3 of this report). In this context, since provinces act on behalf of the federal government, they must uphold all language rights applicable to a federal institution or to the prosecution of a federal offence. To this end, the Fund has been providing the necessary support to allow provinces to deliver services

³⁵ Task Force on Marijuana Legalization and Regulation. (2016). *Toward the legalization, regulation and restriction of access to marijuana*. Ottawa, p. 4.

³⁶ *Ibid*, p. 20.

in both official languages, in accordance with these language right requirements. In the end, and as pointed out in the 2012 evaluation of the Fund, “the Department of Justice has little choice but to keep the Implementation Fund for as long as it intends to keep the Act in its current implementation framework in the provinces.”³⁷

At the time of this report, the Fund continued to be integrated into the federal government’s *Roadmap for Canada’s Official Languages 2013–2018*.³⁸ Reflecting the ongoing commitment of the federal government to “enhance the vitality of official language minority communities and to contribute to strengthened linguistic duality,”³⁹ the Roadmap supports the implementation of 28 initiatives, involving 14 federal partners. The *Contraventions Act* Fund is one of these 28 initiatives.

This evaluation has found no substantive rationale for integrating the Fund in the *Roadmap*, and evidence indicates that keeping the Fund within the *Roadmap* is, in fact, counterproductive. As its title indicates, the *Roadmap* rests on three pillars: education, immigration, and communities. Technically, the Fund is part of the “community pillar.” When looking at the range of initiatives that fall under that pillar, they largely share a common goal of contributing to the enhancement and the vitality of OLMCs through arts and culture, economic development, and the provision of direct services in key sectors, such as health and justice (e.g., through legal information centres). In that sense, the *Roadmap* (and certainly the community pillar) is directly linked to the commitments contained in Part VII of the *Official Languages Act*, to enhance the vitality of the English and French linguistic minority communities in Canada and to support and assist their development.⁴⁰

The *Contraventions Act* Fund certainly relates to official languages as it allows alleged offenders to receive their ticket in both official languages, and to obtain any applicable services covered by the linguistic provisions of the *Criminal Code* or Part IV of the *Official Languages Act* (communications with and services to the public) in both official languages. However, so are the countless other service structures, communication tools, and policies that allow Canadians to peruse government websites in both official languages, renew their passports in either one of the two official languages, or receive services regarding income taxes, pensions, or employment

³⁷ Department of Justice Canada. (2012). *Contraventions Act fund for implementation of language obligations evaluation: Final Report*. Ottawa, p. 15.

³⁸ Government of Canada. (2013). *Roadmap for Canada’s Official Languages 2013–2018: Education, Immigration, Communities*. Ottawa, p. 15.

³⁹ *Ibid*, p. 3.

⁴⁰ Sub-section 41(1)(a) of the *Official Languages Act* (1985, c. 31).

insurance (to name but a few domains) in both official languages. While they are part of the overall official languages program of the federal government, these activities are not directly included in the *Roadmap*, as they do not share the goals specific to its three pillars.

If the inclusion of the *Contraventions Act* Fund into the *Roadmap* was questionable but largely inconsequential, it may not deserve much attention. But this is not the case. By being integrated in the *Roadmap*, the Fund also becomes integrated in an accountability structure and logic, and a renewal process, which do not reflect its nature and purpose. It also creates an artificial distinction between the Fund and the Act itself. Whether financial resources are allocated to the Fund has little to do with the future of the *Roadmap*. As already noted, for as long as the *Contraventions Act* continues to be implemented using the provincial prosecution scheme, the Fund will be needed. And ultimately, the renewal of the Fund is about law enforcement, first and foremost, and meeting the applicable conditions for these activities to occur in accordance with applicable language rights. In this context, neither the Fund nor the *Roadmap* appears to be well served by the status quo.

4.1.4. The systemic shortcomings of the Program

While all the evidence collected as part of this evaluation confirm the relevance of the Program, it also indicates that some of its shortcomings, which were expected to be temporary, have now turned into systemic barriers that weaken the actual relevance of the Program. The two shortcomings that deserve immediate attention are that the Act is still not operational in three provinces, and that the range of offences covered by the Act is too limited.

The Act is still not operational in three provinces

Previous evaluations of the Act and the Fund

Justice Canada conducted its first evaluation involving the *Contraventions Act* in 2006, which focussed specifically on the Fund that supports bilingual services. The formative evaluation report noted that the Act was still not operational in Newfoundland, Saskatchewan, and Alberta, but added, “the Department’s goal remains to have agreements in place in all jurisdictions before the

end of fiscal year 2007–08.”⁴¹ The report cautioned that “failing to have agreements in place in all jurisdictions may affect the achievement of the *Contraventions Act*’s stated objective.”⁴²

The following year, the Department tabled the summative evaluation of the *Contraventions Act* Fund, and noted that negotiations were still proceeding in the three provinces where the Act was not yet operational, but no agreement had been signed. It added that failing to implement the ticketing system was forcing enforcement officers in the applicable provinces to use the summary conviction process, which represents a significant setback in the achievement of the objectives pursued through the Act.⁴³

The most exhaustive analysis of the impact of not having the Act operational in three provinces is contained in the 2010 evaluation of the *Contraventions Act*, which focussed on the Act itself, and not on the Fund. The report describes some of the risks that the Department is facing by maintaining an uneven application of the Act. First, all the systemic barriers to the work of enforcement officers that the Act is attempting to address have remained in these three provinces. And perhaps more importantly, the resulting outcome of having the Act operational in only a portion of the country contravenes the goal of maintaining a fair, even, and predictable enforcement of the law, which is a fundamental component of the rule of law. As stated in the report:

*“The fact that the Act is not yet operational in three provinces is a concern. It creates a situation whereby the exact same unlawful behaviour that would contravene a federal statutory offence designated as a contravention is treated differently, based on the geographical location of the offender. This could trigger legal risks, particularly in provinces where the Act is not operational, in light of the fact that offenders are exposed to greater penalties.”*⁴⁴

The evaluation report included a recommendation that the implementation of the Act in the remaining provinces be considered a priority of the Department.⁴⁵ The following management response was tabled by the Department:

⁴¹ Department of Justice Canada. (2006). *Formative evaluation of the Contraventions Act Fund*. Ottawa, p. 38.

⁴² Ibid, p. 38.

⁴³ Department of Justice Canada. (2007). *Contraventions Act Fund Summative Evaluation: Final Report*. Ottawa, p. 37.

⁴⁴ Department of Justice Canada. (2010). *Contraventions Act Evaluation: Final Report*. Ottawa, p. 50.

⁴⁵ Ibid, p. 54.

“Management agrees with this recommendation. The Department is already in negotiations with Newfoundland and Labrador and anticipates being able to enter into an agreement with the province by the end of the fiscal year. The delay in reaching agreement has been outside of the control of the Department. The Department will also pursue the interest of Alberta and Saskatchewan in entering into an agreement to implement contraventions in their respective jurisdictions.”

Finally, the 2012 evaluation of the Fund noted that no progress had been made in making the Act operational in the remaining three provinces, and added that the “partial implementation of the *Contraventions Act* will not likely be permanently sustainable,” as it was creating legal risks associated with non-uniform application of federal law.”⁴⁶

An absence of departmental strategy

Twenty-five years after the Act became *de facto* operational, and 10 years after the completion of the first evaluation relating to the *Contraventions Act*, federal offences designated as contraventions must still be enforced by way of the summary conviction process in Newfoundland and Labrador, Saskatchewan, and Alberta. Arguably, this anomaly has lost any provisional dimension, and has turned into a systemic flaw (*un vice de fond*).

In its management response issued in 2010, the Department emphasized that the delay in reaching new agreements has been outside of its control. The willingness of a province to support the implementation of the Act is indeed an essential condition that can be facilitated or nurtured, but that cannot be forced. Furthermore, findings gathered as part of this evaluation indicate that the *Contraventions Act* Implementation Management Team has invested considerable efforts in trying to secure new agreements.

Despite these sustained and commendable efforts, the fact remains that, at the time of this evaluation, the Department had no strategy to deal with the likely scenario that the Act may never become applicable throughout Canada. In other words, by maintaining the same approach, there is little reason to believe that a nation-wide application of the Act is within reach. This is incompatible with the stewardship role that the Department plays in relation to the Canadian justice system and the rule of law.

⁴⁶ Department of Justice Canada. (2012). *Contraventions Act Fund for Implementation of Language Obligations Evaluation: Final Report*. Ottawa, p. 16.

As a result, the Department is faced with two viable options. It can either implement a revised strategy to deal with the three provinces that have yet to sign agreements, which would likely require the involvement of senior management officials within the Department and perhaps the Minister, or it can initiate the design of an alternative process that would allow for tickets to be issued in these jurisdictions, without having to use provincial enforcement schemes.

The impact of the status quo

In the meantime, evaluation findings confirm once again that maintaining an uneven implementation of the Act is triggering risks. As previously noted, interviews conducted with enforcement officers have indicated that, in the absence of a ticketing system, there is a greater likelihood that offences designated as contraventions will not be as readily enforced in jurisdictions where the Act is not operational. Having a person receive a warning (in Newfoundland for instance), while another person receives a ticket and a fine in another province (in New Brunswick for instance) for the very same offence, committed in the same circumstances, is evidently problematic.

What is perhaps more concerning is that the reverse scenario is also occurring. In some jurisdictions where the Act is not operational, Canadians who are alleged to have contravened a statutory offence designated as a contravention are currently being prosecuted by way of the summary conviction process. Considered in isolation of the overall implementation of the *Contraventions Act*, there are no issues with having such charges proceeding. The fact that the ticketing system is available was never meant to replace the summary conviction process as an option. The broader concern, however, comes again from the uneven treatment to which alleged offenders are exposed across Canada.

A good illustration of this is provided by national parks. In 2014–15, more than 14 million people visited one of Canada’s national parks.⁴⁷ By far the two most popular parks are Banff and Jasper, located in Alberta. Those two parks combined received a little more than six million visits that same year, which represented more than 40% of all visits. A number of statutory offences applicable to national parks, including those under the *Canada National Park Act*, have been designated as contraventions. Enforcement authorities consulted as part of this evaluation confirmed that, in light of the strategic importance that Banff and Jasper represent and in light of the fact that the ticketing system under the *Contraventions Act* is not available in Alberta, they systematically enforce offences using the summary conviction process. While precise statistics on

⁴⁷ Parks Canada. (2016). *Parks Canada Attendance 2011-12 to 2015-16*.

the number of charges laid were not available, key informants estimated that approximately 1,000 charges are laid every year for offences occurring in Banff alone, all of which must proceed through the summary conviction process. As a point of comparison, interviewees estimated that between 300 and 400 offences of the same nature are enforced in national parks located in British Columbia, and that approximately 90% of those are enforced using the ticketing system. They estimated that, in the event that the ticketing system under the *Contraventions Act* was to become available in Alberta, the same proportion of offences occurring in its national parks would be enforced by way of tickets.

During interviews, enforcement officers pointed to many concerns with the summary conviction process, which have also been documented in previous evaluations of the Act.⁴⁸ From the citizens' perspective, there is little doubt that the consequences of having to go through the summary conviction process, which was designed to deal with criminal offences, are often disproportionate considering the nature of the offence. For enforcement officers, the lengthy steps required by the summary conviction process also limit their ability to be "on the ground," assuming their primary responsibility is to enforce federal legislation.

The current range of offences designated as contraventions is too narrow

The second substantial shortcoming of the Program that emerged from evaluation findings relates to the range of offences currently designated as contraventions. The evidence supports a significant expansion of the current scope⁴⁹, and indicates that a failure to do so considerably weakens the relevance of the Program.

At the time of this report (and as previously noted in sub-section 2.3 of this report), there were 1,300 statutory provisions that contained offences designated as contraventions. While it is challenging to find a current account of the total number of federal statutory offences, the Department of Justice provided an estimate of approximately 97,000 in 1983,⁵⁰ and there is no reason to believe that the number today would be radically lower. In any case, it is evident that only a fraction of all federal statutory offences can currently be enforced using the ticketing system provided by the *Contraventions Act*.

⁴⁸ For a more detailed description, see: Government of Canada. (2010). *Contraventions Act Evaluation: Final Report*. Ottawa, p. 24.

⁴⁹ For the purpose of this evaluation, the scope of the *Contraventions Act* refers to the number of offences covered by the regime it has established.

⁵⁰ This estimate is included in: Law Commission of Ontario. (2010). *Sentencing Purposes and Principles for Provincial Offences: The Modernization of the Provincial Offences Act*. Ottawa, p. 15.

Previous recommendation

The 2010 evaluation of the *Contraventions Act* included a recommendation specific to the scope of the Act: “The Department of Justice Canada, in collaboration with other federal departments, should assess opportunities for expanding the current scope of the *Contraventions Act*.”⁵¹ On this point, the report also noted that:

“At a conceptual level, it may not be apparent why the Contraventions Act would not cover essentially any federal offence for which a limited and set fine appears appropriate when no aggravating circumstances exist. As already noted, the Act adds a new component to an enforcement officer’s tool box, but it does not take anything away from it. When circumstances warrant it, enforcement officers always maintain the option of proceeding by way of summary conviction.”

The Department agreed with the recommendation, and indicated that a network of institutions involved with contraventions would be established to explore potential strategies to expand the scope of the Act, recognizing that any such decision to expand the scope of the Act belongs to each client-department. To this end, the Department established the *Contraventions Act* Study Group, which involves the *Contraventions Act* Implementation Management Team, as well as Justice Canada legal counsel assigned to legal services units in federal departments that oversee laws containing statutory offences designated as contraventions. Evaluation findings indicate that the Study Group was active throughout the period covered by the evaluation, meeting approximately once per year. Further, the *Contraventions Act* Implementation Management Team became an active member of the Community of Federal Regulators, speaking at its Annual Workshop, providing lectures at Regulators Speakers Series and partnering with the Community in holding a full-day Federal Regulatory Law Enforcement Symposium in January 2013. These efforts have not resulted, however, in a significant increase in the number of offences covered by the *Contraventions Act*.

The need to pursue the expansion

During the period that followed the 2010 evaluation of the Act, some additional offences have in fact been added to the list of those that are designated as contraventions. Such is the case of offences that fall under the *Canadian Environmental Protection Act (1999)*. However, interviews

⁵¹ Department of Justice Canada. (2010). *Contraventions Act Evaluation: Final Report*. Ottawa, p. 53.

conducted as part of this evaluation, particularly those with enforcement officers, confirm that this expansion process is far from being completed.

It is not within the scope of this evaluation to identify all other statutory offences that should be designated as contraventions. That said, evaluation findings do provide informative illustrations of the need to expand the scope of the Act.

Dry cleaning related prohibitions

The first example is provided by the *Canadian Environmental Protection Act (1999)*, which is a particularly complex regulatory framework. At the time of the evaluation, there were 59 active regulations that had been adopted under this legislation. A total of 18 of these regulations included offences designated as contraventions. Interviews with enforcement officers first indicate that a third of these regulations are no longer enforced or very rarely used, which provides important contextual information on the range of offences designated as contraventions. As for statutory offences that are enforced, a particularly important one (in terms of volume of offences) is the *Tetrachloroethylene (Use in Dry Cleaning and Reporting Requirements) Regulations*. As its title indicates, this set of regulations applies to the dry cleaning industry, which operates using a range of chemicals, including tetrachloroethylene. For enforcement purposes, it is worth noting that the dry cleaning industry, which includes over 3,000 businesses across Canada employing close to 25,000 individuals, is particularly fragmented, as the vast majority of dry cleaning companies operate only one establishment.⁵² Considering the significant environmental damage and associated health risks caused by tetrachloroethylene, these industries are considered a priority target of inspection and enforcement.

Of all the offences included in the *Tetrachloroethylene (Use in Dry Cleaning and Reporting Requirements) Regulations*, the ones that are designated as contraventions are largely limited to reporting requirements (Part 2 of the regulations). For instance, if a dry cleaning operator fails to submit the required form and information relating to the importation, recycling, sale, or purchase of tetrachloroethylene, they may receive a ticket under the regulation. The only offence designated as a contravention that relates to a prohibited use of tetrachloroethylene is found in section 4 of the regulations, which mandates all operators to store this chemical in closed containers. Enforcement officers consulted as part of this evaluation indicated that all the other prohibitions found in the regulations should also be designated as contraventions. This would include, for

⁵² IBISWorld. (2016). *Dry Cleaners in Canada: Market Research Report*. Retrieved October 13, 2016 from <http://www.ibisworld.ca/industry/dry-cleaners.html>.

instance, the prohibition to use tetrachloroethylene in spotting agents, or failing to recover or appropriately dispose of water containing tetrachloroethylene. While no official statistics were available, enforcement officers indicated that in approximately 50% of cases, an inspection will result in a non-compliance to this list of prohibitions. Since these offences cannot be enforced through contravention tickets, and prosecutors rarely agree to take them on, the alleged offenders often end up with only a warning. According to interviewees, this high level of non-compliance comes from the fact that taking all required measures can be expensive, and that the dry cleaning industry operates in a highly competitive market. Offences are therefore committed to avoid these additional costs. While warnings have no financial consequences, tickets do, and they would allow for the proper enforcement of these important prohibitions.

Other examples provided by enforcement officers

During interviews, enforcement officers identified other areas of their work that would greatly benefit from being able to use the ticketing system under the *Contraventions Act*. While not exhaustive by any means, the list of these other examples includes the following:

- Under the *National Parks of Canada Camping Regulations*, one of the most frequent offences committed falls under section 9, which states that the “holder of a camping permit shall, at all times, maintain the campsite to which the permit applies in a condition satisfactory to the superintendent.” Among other things, being able to appropriately enforce this requirement is critical for wildlife control. Enforcement officers noted that they have been forced to kill a number of dominant wolves over the past year that were feeding on food left on camping sites. This offence has yet to be designated as a contravention.
- Under the *Fishery (General) Regulations*, a frequent offence falls under section 11, which states that “every holder of a licence or fisher’s registration card shall carry it at all times while engaged in any activity to which it relates and shall produce it on the demand of a fishery officer or fishery guardian.” As mentioned by interviewees, these are rarely cases where a full procedure under the summary conviction process is appropriate. A ticket under the *Contraventions Act* would be far more appropriate, but this option is not available at this point.
- The *Canada Shipping Act* is another regulatory framework that is particularly complex. At the time of the evaluation, a total of 58 regulations had been adopted under this law, five of which include offences designated as contraventions. Enforcement officers consulted as part of this evaluation indicated that other sets of regulations should be covered, including the *Special-purpose Vessels Regulations*, and that the range of offences included in current regulations — such as the *Collision Regulations* and the *Small Vessels Regulations* — should be expanded.

A collaborative approach

As noted during interviews, the Department of Justice cannot unilaterally increase the number of offences covered under the *Contraventions Act*. Each department responsible for the management and enforcement of these various laws and regulations must agree to any such changes. The fact remains, however, that the Department of Justice has a fundamental responsibility to ensure that the *Contraventions Act* can achieve its stated objectives, which directly support the rule of law. Evaluation findings confirm that this can only be done by ensuring that appropriate offences fall within the scope of the *Contraventions Act*, an outcome that has yet to be achieved.

4.2. Performance – Effectiveness

Findings from this evaluation indicate that an increasing number of federal offences designated as contraventions are being enforced across Canada. Also, participating provinces continue to use the *Contraventions Act* Fund to ensure that these enforcement activities are being carried out in accordance with applicable language rights. As a result, while challenges remain, the Program has had positive impacts on key stakeholders, namely enforcement officers, Canadians, and the court system.

4.2.1. Program activities

This section focusses first on enforcement activities undertaken in accordance with the *Contraventions Act*. It then turns to the range of activities undertaken through the *Contraventions Act* Fund.

Enforcement of statutory offences designated as contraventions

Level of enforcement activities

To offer an overview of enforcement activities across participating provinces, data for a four-year period covering 2011–12 to 2014–15 were selected, and they are included in Table 5. It indicates that, on a yearly basis, between 16,000 and 23,000 federal contraventions tickets have been issued and delivered.

Table 5: Number of contraventions tickets issued, per participating province (2011 to 2015)

Provinces*	2011–12	2012–13	2013–14	2014–15
PE	0	16	70	44
NS	737	1,237	1,199	1,328
QC ⁵³	8,825	8,139	8,404	4,932
ON	10,580	8,981	8,554	8,223
MB	316	300	329	318
BC	2,634	2,306	1,870	1,870
Total	23,092	20,979	20,426	16,715

* Data from New Brunswick were not available at the time of this evaluation.

Source: Annual reports submitted by provincial authorities.

Reflecting their demographic size, Ontario and Québec combined issued just over 80% of all contraventions tickets. While this is significant, other important trends are emerging from the Maritimes:

- The province of Nova Scotia continues to expand its use of the contraventions tickets scheme. Over the four years covered by the table, the number of contraventions tickets has increased by more than 80%.
- Prince Edward Island is also engaging more systematically in the ticketing regime. Interviews conducted as part of this evaluation confirmed that enforcement agencies have established the required procedures and training to support an enhanced use of contravention tickets. Considering the level of tourism experienced in that province, the need to enforce statutory offences applicable to the Confederation Bridge, and the presence of a national park and historic sites, this was seen as a positive outcome by representatives of the provincial government and enforcement authorities.
- New Brunswick is also making a more systematic use of the ticketing system included in the *Contraventions Act*. At the time of the evaluation, no official statistics were available on the number of tickets issued in that province. However, interviews conducted with provincial representatives confirmed that enforcement authorities are increasingly using the ticketing

⁵³ Due to administrative setbacks in 2014-15, the province of Quebec was not able to process all of the contraventions tickets that were written up by enforcement officers. However, preliminary data regarding the number of processed contraventions tickets in 2015-16 indicate that the backlog has since been eliminated, with over 12,000 tickets confirmed to have been issued that year.

scheme. It was estimated that approximately 250 tickets are currently being issued in New Brunswick, relating predominantly to offences in the areas of fisheries and the environment.

Data for the previous five years provide additional insights on the implementation of the Act over time. Table 6 reproduces the statistics related to this five-year period, and the trend line in Figure 1 confirms the overall increase in the number of contraventions tickets issued over time⁵⁴.

Table 6: Number of contraventions tickets issued, per participating province (2006–11)

Provinces	2006–07	2007–08	2008–09	2009–10	2010–11
PE	0	0	0	0	0
NS	364	326	198	355	487
QC	6,191	4,978	7,120	7,870	8,282
ON	11,831	10,361	8,235	10,850	10,621
MB	305	225	422	360	282
BC	1,155	1,924	1,960	1,815	2,068
Total	19,846	17,814	17,935	21,250	21,740

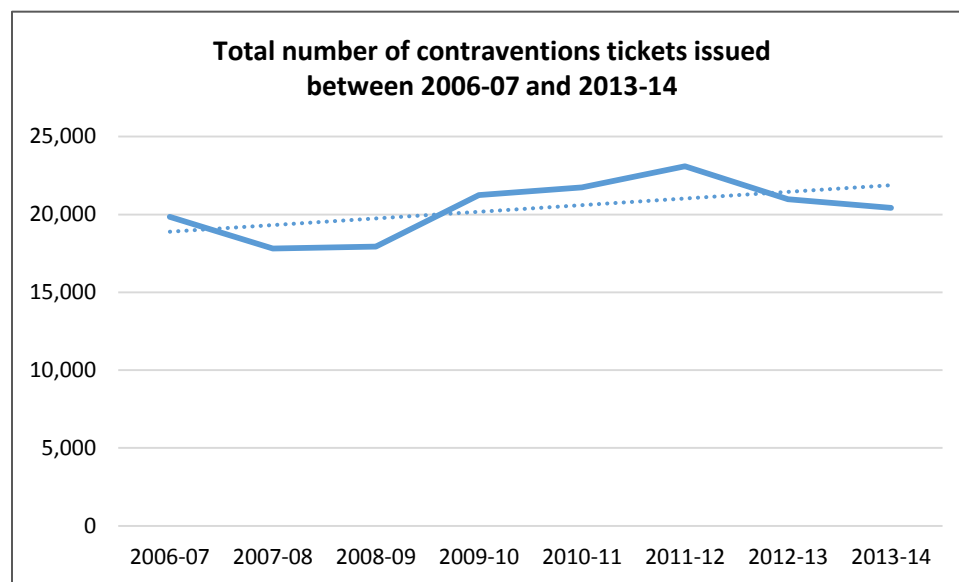
Source: Department of Justice Canada. (2010). Contraventions Act Evaluation: Final Report. Ottawa, p. 35, and annual reports submitted by the provinces.

These numbers also confirm the fluctuations that some provinces have been experiencing, along with the more steady growth that is experienced in Atlantic Canada, and in Nova Scotia in particular.

As emphasized through interviews conducted as part of this evaluation, adding Newfoundland and Labrador to the list of participating provinces would arguably lead to a sharp increase in the number of offences enforced through contravention tickets, particularly in light of fisheries and tourism activities found in that province. As noted in sub-section 4.1.4, the same conclusion applies to Alberta, which invests considerable resources in the monitoring and management of tourism activities occurring in its national parks, including the protection of wildlife found in these parks.

⁵⁴ Figure 1 excludes data from 2014-15, so as not to include the anomaly described above with respect to the number of tickets issued in Quebec in that year.

Figure 1: Total number of contraventions tickets issued between 2006-07 and 2013-14



The extent to which each set of offences designated as contraventions is relevant or applicable varies among provinces. Using 2013–14 data,⁵⁵ the following trends illustrate some of these variations:

- In Prince Edward Island, almost half of the tickets issued related to the *Government Property Traffic Act* (the Confederation Bridge for the most part), and close to a third related to the *Fisheries Act*.
- In Nova Scotia, 90% of all tickets issued related to the *Government Property Traffic Act*, which covers all traffic offences occurring on federal properties (such as those surrounding airports).
- In Manitoba, just over 40% of tickets issued related to provisions under the *Railway Safety Act*, while another 18% related to the *Motor Vehicle Transport Act* (which deals with commercial drivers).
- In British Columbia, the most applicable laws have been the *Government Property Traffic Act* (40% of tickets issued), the *Railway Safety Act* (33% of tickets issued), and the *Canada Shipping Act* (20% of tickets issued).

⁵⁵ Data included in annual reports from the provinces. At the time of the evaluation, statistics on the distribution of offences per enabling legislation were not available for Québec and Ontario.

These statistics illustrate the importance of the *Government Property Traffic Act*, but they also provide contextual information on the current scope of offences covered by each law included in the *Contraventions Act*. In other words, the fact that few tickets are issued under some of the laws covered by the *Contraventions Act* supports the call to expand the scope of offences designated as contraventions.

Enforcement training and tools

While they contain similarities, each provincial ticketing system has its own characteristics, which enforcement officers must learn about and be able to navigate through in order to use the ticketing system provided through the *Contraventions Act*. This, in turn, requires appropriate training and tools.

For the purpose of this evaluation, it is important to recognize that, ultimately, it is up to each enforcement agency to train its officers and to provide the tools they require to conduct their activities. The role of Justice Canada is limited to providing the appropriate support and expertise.

Evaluation findings indicate that, overall, enforcement officers are adequately trained and do have access to the tools they need to enforce federal statutory offences designated as contraventions. None of the evidence collected as part of this evaluation pointed to significant shortcomings that could substantively affect the ability of enforcement officers to operate within the *Contraventions Act* ticketing scheme.

In considering training needs, it must first be noted that some federal departments turn to provincial agents to enforce federal offences. This is the case, for instance, for the Department of Environment and Climate Change Canada, which uses provincial officers to enforce a number of federal contraventions in Nova Scotia. In such cases, since these provincial officers are already familiar with their ticketing system, they require limited training related to the contraventions schemes.

It is rather in the more traditional and prevalent case of federal agencies using their own enforcement officers that some challenges relating to training was identified. Before the *Contraventions Act* becomes operational in their jurisdictions, when it comes to prosecution the experience of these federal enforcement officers is typically limited to the summary conviction process. As a result, federal agencies have put in place a range of training activities that reflect their operational realities. In some cases, key informants noted that group training is provided, whereas other agencies will provide more informal training to new officers on an individual basis.

This latter form of training becomes particularly important when enforcement officers transition from one province to the next.

When asked, representatives from the *Contraventions Act* Implementation Management Team have participated in the provision of these training activities. Enforcement managers consulted as part of this evaluation were generally aware and appreciative of this support.

Other challenges

Regardless of the means by which it is done, enforcing offences is bound to raise a number of challenges that reflect the nature of offences, and the context in which they are occurring. Throughout the interviews conducted as part of this evaluation, enforcement officers raised a number of these challenges, such as delivering a hand-written ticket in a moving boat under heavy rain, having to work with prosecutors or judges who know very little about the specific area of law covered by the ticket, or the lack of database information on offenders (to determine whether they are repeat offenders). While important, these challenges extend beyond the Program, and simply relate to the larger structures in which enforcement officers must operate.

Two specific challenges emerged from evaluation findings that cut across all categories of offences.

Forcing the payment of a fine

The first of these challenges relates to the enforcement of fines. Most provinces have incorporated the forcing of a payment of outstanding federal contraventions fines into their existing systems for collecting unpaid provincial fines, such as through the driver's licence renewal process. However, the evaluation indicates that this remains a challenge in some jurisdictions. During interviews conducted as part of this evaluation, a number of enforcement officers noted that this shortcoming is weakening the relevance of the ticketing system, as some alleged offenders no longer "take these tickets seriously," as failing to pay them is of no material consequence. Ultimately, enforcement officers may deal with these cases by electing to proceed through the summary conviction process, but this is not in line with the objectives of the *Contraventions Act*.

Reviewing and updating penalties

Another challenge comes from the current levels of fines, which have largely remained unchanged for an extended period of time.⁵⁶ As a result, a number of similar offences that are established in both provincial and federal laws, such as traffic offences occurring on either a federal or provincial territory, lead to significantly different fines. As an example, the fine resulting from parking in a zone reserved for individuals with disabilities on federal land is \$50, while the City of Ottawa charges \$450 for the same offence. The evaluation confirms, however, that when Justice Canada has been made aware of these instances of fine discrepancies, it has taken action to address them.

It must be emphasized that a range of views were expressed on the extent to which current levels of fines are appropriate. This is to be expected considering all the different laws and offences covered by the *Contraventions Act*. That said, the challenge remains to ensure that fine levels remain relevant and modified as needed, since they do not undergo a systematic and regular review.

It is also worth noting that modifying fine levels is a time-consuming process that requires various types of legal and economic input and analyses. Unless it is prioritized, proceeding with these changes may remain at the bottom of the planned list of statutory activities of a department.

Activities supported by the Contraventions Act Fund

Range of activities supported

As previously noted in the description of the Program (see sub-section 2.4), the *Contraventions Act* Fund supports a range of measures ensuring the provision of bilingual services in five provinces: Prince Edward Island, Nova Scotia, Ontario, Manitoba, and British Columbia. While the Act is also operational in New Brunswick and Québec, funding is not required as these two provinces already provide bilingual judicial and extra-judicial services to offenders.

When it comes to language rights applicable in the context of the *Contraventions Act*, two dimensions must be addressed:

- During the initial enforcement process, officers must be in a position to deliver bilingual tickets and to provide bilingual services in accordance with Part IV of the *Official Languages Act*.

⁵⁶ Only those contraventions that have undergone amendments for other purposes have had fine levels revised since their initial designation as contraventions.

This applies equally to enforcement officers working for a federal department or agency, and to municipal or provincial enforcement officers who are mandated to enforce federal offences designated as contraventions. This applies as well to provincial court services personnel assigned to the provision of information on federal contraventions.

- During any judicial proceedings, particularly but not limited to instances where contravention tickets are being challenged, judiciary services must be delivered in accordance with language rights established in the *Criminal Code* (sections 530 and 530.1), and Part IV of the *Official Languages Act*.

The range of activities supported by the Fund varies in each of the targeted provinces. The flexibility allowed by the Program to tailor each agreement based on the needs of provincial institutions to deliver services in both official languages is a significant strength that must be preserved, particularly in light of any negotiation that could allow the remaining provinces to support the implementation of the ticketing system.

A review of existing agreements indicates that the types of measures currently supported through the *Contraventions Act* Fund include (but are not limited to) the following:

- hiring bilingual judges, justices of the peace, and clerical support
- traveling expenses for out-of-province bilingual judges
- language training for judges and court personnel
- printing bilingual tickets
- signage and other required equipment (such as bilingual websites, toll-free lines for bilingual services, or video/audio links to provide bilingual services at a distance)

As indicated in Table 7, the federal government has committed between \$3.3 million and \$4.9 million annually to support the provision of bilingual services, through the six agreements it has signed with participating provinces and city.

Table 7: Eligible expenditures under the *Contraventions Act* Fund (2013–16)

Provinces / City	2013–14	2014–15	2015–16
PE	\$219,010	\$222,964	\$225,347
NS	\$756,050	\$777,450	\$804,050
ON	\$2,800,000	\$1,626,900	\$1,165,558
MB	\$350,000	\$350,000	\$315,000
BC	\$675,000	\$689,375	\$704,109
City of Mississauga	\$138,651	\$144,132	\$149,896
Total	\$4,938,711	\$3,810,821	\$3,363,960

Source: *Agreements signed under the Contraventions Act.*

Evaluation findings indicate that not all committed funds are systematically used by the signatory provinces. This is expected, as these financial projections are based on a number of assumptions in terms of tickets delivered or actual services delivered. Using the fiscal year 2014-15 as an example, Table 8 indicates that, out of the \$3,810,821 reported through Public Accounts, an amount of \$2,948,977 was actually spent, leaving an additional surplus for that year of \$861,844.

Table 8: Actuals and Payments Based on Final Claims Received per province for the fiscal year 2014–15

Provinces / City	Actuals (as per Public Accounts)*	Payment Based on Final Claims Received	Difference
PE	\$222,964	\$184,920	\$38,044
NS	\$777,450	\$711,883	\$65,567
ON	\$1,626,900	\$997,680	\$629,220
MB	\$350,000	\$290,184	\$59,816
BC	\$689,375	\$620,178	\$69,197
City of Mississauga	\$144,132	\$144,132	\$0
Total	\$3,810,821	\$2,948,977	\$861,844

Source: *Publics Accounts and the Financial System.*

*Amounts include payables at year-end (PAYE)

Capacity to deliver bilingual services

The evaluation has not identified any deficiencies with regard to the capacity of enforcement authorities or the court system to enforce and process federal offences designated as contraventions in accordance with applicable language rights.

All enforcement authorities that were consulted were well aware of the applicable language rights and had established procedures that would ensure that any individual who is served with a ticket is able to receive information and be assisted in the official language of their choice.

As for the court system, the required capacity has been established to process tickets in either one of the two official languages, and to allow individuals who wish to challenge their ticket to do so in the language of their choice.

As indicated in Table 9, a relatively small portion of tickets issued end up being challenged in court. Using the fiscal year 2014–15 as an example, the data shows that 11% of individuals who received a contravention ticket challenged it. Of that number, very few requested trials in French (1.4%).

Table 9: Number of trials held per province receiving financial support under the *Contraventions Act* Fund, for the fiscal year 2014–15

Provinces	Total number of tickets issued	Number of trials held (including French trials)	Number of French trials held
PE	44	0	0
NS	1,328	8	1
ON	8,223	1,119	17
MB	318	n/a	n/a
BC	1,870	125	0
Total	11,783	1,252	18

Source: Agreements signed under the Contraventions Act.

There are contextual considerations that must be kept in mind when assessing the information contained in Table 9:

- The fundamental goal of the Fund is to ensure capacity to provide bilingual services. Having this capacity in place is a necessary condition in order for the federal government to use provincial schemes to enforce contraventions tickets. In its absence, the current model would violate constitutional and quasi-constitutional language rights and would need to be replaced (as described in more detail in sub-section 2.4 of this report). Consequently, the number of French trials held is informative, but does not affect the rationale for having the Fund in the first place.
- The fact that few trials have been held in French does not mean that no services have been offered in French. A portion of the financial support provided by the Fund serves to print tickets in both official languages. Considering the fact that many individuals simply pay the fine they have received, having tickets printed in both languages goes a long way in ensuring that services are provided in both languages. The same applies to bilingual websites, or phone services that are offered to those who may have questions regarding their tickets. During

interviews, court representatives confirmed that such calls are made, and that they have procedures in place to ensure that information can be provided in both languages.

4.2.2. Program impacts

As this report illustrates, there is a strong rationale for having the *Contraventions Act* in place. The Act was designed to facilitate the work of enforcement officers, and to be fairer to Canadians. It was also designed to avoid having these offences dealt with by the court system, whenever the person who is alleged to have contravened a federal offence designated as a contravention does not wish to challenge that ticket. Evaluation findings confirm that the Program is contributing to the achievement of these expected outcomes. This, however, only extends to provinces where the Act is operational.

Impacts on enforcement officers

Not a single enforcement officer consulted as part of this evaluation has questioned the usefulness of the ticketing system available under the Act. As noted throughout the report, they certainly provided suggestions to improve it, but always with a view of turning a good tool into a better one. The following quotes from interviews conducted as part of this evaluation illustrate the benefits enforcement officers derive from the Program:

“We are very satisfied. We no longer have officers spending all this time in court. And the fact that we serve these tickets on the spot has a greater impact on individuals. With the summary conviction process, all the papers are served at a later point, which has less impact.”

“It’s much easier for us to prepare our case and provide the evidence, and it relieves the courts from having to deal with all these cases.”

“I used to work in Alberta where we could not use the ticketing system. It makes a lot of difference. Tickets have more weight than a warning letter and are less cumbersome (than the summary conviction process) for smaller files. They save time and public funds.”

“There was sort of a gap between violation and prosecution before, without the ticketing measures in place. Money talks. Ticketing makes people take the

necessary actions earlier. And we have busy courts. Ticketing reduces the load and costs on that side as well.”

“It helps to motivate, encourage, and establish an enforcement presence on the water. It’s probably the best tool we have. From our officers’ perspectives, it brings significant value to what they are doing.”

The views of enforcement officers are critical in the context of this evaluation. The significant efforts and resources that have been mobilized to date to support the implementation of the *Contraventions Act* would largely be pointless if enforcement officers were to disregard it, and continue to operate strictly with the other available options. This is not the scenario that has unfolded. On the contrary, it is now evident that, in the absence of the ticketing system, the ability of enforcement officers to carry out their mandate is reduced.

Impacts on Canadians

The Program is also achieving its outcomes when it comes to limiting the consequences of being found guilty of an offence designated as a contravention. As stated in section 4 (b), the *Contraventions Act* aims “to alter or abolish the consequences in law of being convicted of a contravention.” This outcome is achieved in all provinces where the Act is operational. Those individuals who have contravened a federal contravention can readily pay the fine and settle the matter for good. They face no criminal record, no possibility of imprisonment, and a consistent fine applied across Canada.⁵⁷ In that sense, the fundamental distinction between a criminal and a statutory offence is achieved.

As made clear in this report, Canadians who live in provinces where the Act is not operational, or who happen to contravene a federal contravention while visiting one of these provinces, continue to be exposed to the consequences of having been found guilty of a federal offence under the summary conviction process. While, in some cases, enforcement authorities hesitate to enforce these offences (and limit themselves to issuing a warning), in other cases they systematically proceed under the summary conviction process. While precise numbers are not available, evaluation findings indicate that, at the time of this report, there were several hundred Canadians (and foreigners traveling in Canada) who were charged yearly under the summary conviction process for offences that are otherwise enforced through the ticketing system in the majority of Canadian provinces. This outcome is not compatible with the proper application of the rule of law.

⁵⁷ The final amount paid by individuals will only vary based on surcharges imposed by each province.

Impacts on the court system

Evaluation findings indicate that the *Contraventions Act* is also providing relief to the court system. As illustrated in Table 9, during the years covered by this evaluation, approximately 14% of tickets issued under the Act have been challenged in court. This number is consistent with findings contained in the 2010 evaluation of the Act.⁵⁸

In the absence of the Act, and assuming that offences would be as readily enforced, close to 20,000 files would need to be prepared each year by enforcement officers and would require at least some involvement of the court system, regardless of their outcome. This would be a highly inefficient use of court time and resources. The experience in provinces where the Act is operational demonstrates that, without being perfect, the ticketing system is more appropriate for dealing with statutory offences. When circumstances warrant it, the summary conviction process continues to be used in all provinces where the Act is operational.

At the time of this evaluation, courts in Newfoundland and Labrador, Saskatchewan, and Alberta continue to deal with federal contraventions exclusively through the summary conviction process. As noted during interviews, enforcement officers are not spending as much time enforcing federal laws (as they spend more time in court), prosecutors and court personnel must engage in every file that is brought forward, and the entire court must dedicate time and resources for dealing with matters that, in the vast majority of cases, would have been dealt with through the ticketing system if it were available. This further contributes to the systemic bottlenecks faced by courts in Canada. As noted by the Supreme Court of Canada in a recent decision:

*“Timely trials further the interests of justice. They ensure that the system functions in a fair and efficient manner; tolerating trials after long delays does not. Swift, predictable justice, ‘the most powerful deterrent of crime’ is seriously undermined and in some cases rendered illusory by delayed trials.”*⁵⁹

Implementing the *Contraventions Act* can only provide a modest contribution to reducing court delays, but evaluation findings confirm that it does support this goal.

⁵⁸ Department of Justice Canada. (2010). *Evaluation of the Contraventions Act: Final Report*. Ottawa, p. 45.

⁵⁹ *R. v. Jordan*, 2016 SCC 27, par. 28.

4.3. Performance – Efficiency and Economy

This final subsection covers three dimensions that speak to the efficiency and economy of the Program. It first addresses the quality of reporting provided by the participating provinces. It is followed by a discussion on the cost-effectiveness of the Program, and the extent to which alternatives to the Program exist.

Current reporting requirements

In order for federal contraventions to be enforced through the provincial prosecution scheme, the Department of Justice must sign an agreement with each participating province. As already noted in this report, some of these agreements cover contributions provided by the federal government to support the provision of bilingual services, whereas other agreements (as is currently the case with New Brunswick and Québec) focus essentially on the management and sharing of revenues generated by the payment of contraventions tickets fines.

During the period covered by the evaluation, the *Contraventions Act* Management Implementation Team had initiated the renewal of these agreements with the goal of having more consistent agreements in place. This process was largely completed, as only the new agreement in New Brunswick had to be finalized.

Reports provided by participating provinces contain critical information that supports the ongoing management of these agreements, and the evaluation of the Program. As illustrated throughout this report, data from these reports have provided important insights on the rationale and effectiveness of the Program.

Cost-effectiveness of the Program

The cost-effectiveness of the Program must be considered from the perspective of the administration of federal tickets generally, and from the perspective of the Fund that relates specifically to official languages duties.

Administration of tickets

When it comes to the actual administration and processing of federal tickets (regardless of official languages considerations), the fundamental principle behind the Program is that these activities must, at a minimum, be cost neutral for the participating provinces. As such, these provinces are allowed to deduct, from all fines collected through contravention tickets, an amount equivalent to

all administration costs related to the administration and enforcement of federal contraventions. They may also use other means — such as administrative provincial fees charged in addition to the amount of the fine indicated on the ticket — to ensure that all their costs are covered.

In the event that the sum collected through federal contraventions tickets is greater than those administration costs, participating provinces retain half of this surplus amount, and remit the other half to the federal government. As a result, participating provinces never incur net costs for supporting the enforcement of federal tickets.

Table 10: Provincial net revenues from contraventions tickets (2011–15)*

Provinces	2011–12	2012–13	2013–14	2014–15
PE	\$645	\$646	\$2,693	\$1,392
NS	\$15,526	\$23,243	\$18,767	\$19,127
NB	n/a	n/a	n/a	n/a
QC	\$231,245	\$275,793	\$201,414	\$140,173
ON	n/a	n/a	n/a	\$440,054
MB	\$30,836	\$34,718	\$33,076	\$13,397
BC	\$33,672	\$30,469	\$31,195	\$31,630
Total	n/a	n/a	n/a	n/a

* These revenues represent half of the total revenues collected through contraventions tickets, once all administrative costs incurred by participating provinces have been deducted. The other half of these net revenues is remitted to the federal government.

Source: Annual reports submitted by provincial authorities.

Data from the past four years on the net amounts that provinces generated in revenues is presented in Table 10. These numbers reflect the volume of tickets issued and confirm that administrating the *Contravention Act* regime reduces court expenditures that would otherwise be incurred in the event that these offences would have been prosecuted through the summary conviction process, and provides a revenue generating opportunity.

Contraventions Act Fund

When it comes to the Fund that supports the provision of services in both official languages, the Program has used consistently fewer resources than initially allocated. As illustrated in Table 11, this trend is also reflected for the period covered by the evaluation. In 2013–14, the Program used 60% of the allocated resources. In 2014–15 and 2015-16, it dropped to 44% and 41% respectively.

Table 11: Budgeted and actual Program expenditures (2013–16)

	2013–14	2014–15	2015–16
Operational costs			
Budgeted	\$781,060	\$827,426	\$781,060
Actual	\$984,599	\$530,565	\$652,324
Difference	\$-203,539	\$296,861	\$128,736
Contributions			
Budgeted	\$9,094,900	\$9,094,900	\$9,094,900
Actuals (as per Public Accounts)*	\$4,938,711	\$3,810,821	\$3,363,960
Difference	\$4,156,189	\$5,284,079	\$5,730,940
Total costs			
Budgeted	\$9,875,960	\$9,922,326	\$9,875,960
Actual	\$5,923,310	\$4,341,386	\$4,016,284
Difference	\$3,952,650	\$5,580,940	\$5,859,676

Source: Public Accounts and Financial System.

*Amounts include payables at year end (PAYE).

As indicated during interviews, a primary reason behind these results is that the Department of Justice is still pursuing the goal of signing agreements with the remaining provinces where the Act has yet to become operational. Based on the experience to date, it is likely that contributions would need to be provided to these provinces to ensure that the enforcement of federal contraventions is conducted in accordance with applicable language rights. The exact amount of these contributions would be the subject of negotiations.

At a more fundamental level, the Program supports an effective approach to implementing the *Contraventions Act*. Using existing structures and processes established by provincial governments is far more effective than creating a separate and parallel structure at the federal level, which would lead to substantial duplication of efforts. Although there have been some challenges, a number of which are documented in this report, the experience to date confirms that federal contraventions can be effectively processed and managed using provincial structures. Furthermore, and as documented in the 2010 evaluation of the *Contraventions Act*, the ticketing system is far more efficient than having each offence dealt with using the summary conviction process.⁶⁰

⁶⁰ Department of Justice Canada. (2010). *Evaluation of the Contraventions Act: Final Report*. Ottawa, p. 48.

As for the specific issue of *economy*, the goal is to assess “the extent to which resource use has been minimized in the implementation and delivery of programs.”⁶¹ In the case of the *Contraventions Act* Program, two dimensions must be considered:

- In the case of the contributions provided to provinces, which represented approximately 85% of the total amount of resources invested during the period covered by the evaluation, these are established in each agreement, based on Program eligibility criteria and on a needs assessment that takes into account the characteristics of each province. As noted in Table 8, the experience to date indicates that provinces only use the resources needed, which has typically been less than anticipated.
- As for operational costs, they largely reflect the range of expenditures associated with programs of this nature. In the specific case of the *Contraventions Act* Implementation Management Team, this consists of two legal counsel, along with the required operational support for the management of the signed agreements. In the event that the Department of Justice pursues a more systematic implementation of the Act in the three remaining provinces and supports an increase in the number of offences designated as contraventions, it may be necessary to enhance the capacity of the Team to support these efforts.

The alternative: Administrative Monetary Penalties (AMPs)

When it comes to alternatives to the *Contraventions Act* Program, the report has already noted that establishing a separate and parallel system to enforce federal contraventions would be far less efficient than using existing provincial schemes.

The only other alternative that was raised during the evaluation consists of the AMP scheme. In a study completed in 2014, the Department of Justice analyzed the AMP scheme, and compared it with the contravention one.⁶² As noted in the study, AMP schemes generally consist of an administrative procedure established and managed by a federal department in order to promote compliance with specific legislative or regulatory measures. AMP schemes use civil sanctions in the form of monetary penalties to address any occurring violations to these legislative or regulatory provisions.⁶³ At the time of this evaluation, there were 31 federal laws, along with a set of

⁶¹ Treasury Board of Canada Secretariat. (2013). *Assessing Program Resource Utilization When Evaluating Federal Programs*. Ottawa, p. 7.

⁶² Department of Justice Canada. (2014). *The Enforcement of Federal Offences: Study on the Contraventions Regime and Administrative Monetary Penalty Schemes*. Ottawa.

⁶³ *Ibid*, p. 7.

associated regulations, which included some form of AMP scheme. They cover a number of areas including (but not limited to) aeronautics, agriculture, transportation, employment insurance, the environment, income tax, nuclear safety, and telecommunications.⁶⁴

The study notes that these two schemes, while related to the enforcement of statutory provisions, pursue distinct objectives. Whereas the goal of the contravention scheme is to provide an alternative to the summary conviction process to prosecute offenders of certain statutory offences while limiting the involvement of the courts, AMP schemes “are autonomous systems that create an administrative procedure to ensure compliance through civil penalties.”⁶⁵

The study notes that AMP schemes are particularly well suited for “regulated fields that require a high level of expertise or where traditional sanctions, including fines and imprisonment, do not ensure full compliance.”⁶⁶ As such, they facilitate the management of these particularly complex offences, by ensuring that all those involved in the enforcement and management of these administrative penalties possess the required expertise to adequately consider each alleged violation.

From an operational and efficiency perspective, it is important to emphasize one fundamental distinction between the contraventions scheme and the AMP schemes. Whereas the contravention scheme is centralized with the Department of Justice, each AMP scheme is established and managed by the department responsible for the legislation covered by the scheme. It is for this reason that we currently have multiple and distinct AMP schemes being implemented throughout the federal government.

In assessing the appropriateness of either the contraventions scheme or the AMP schemes, each department must therefore take into account a number of factors, such as the nature of the statutory provision, the target audience, the level of fines to be imposed, and the level of resources available to support the enforcement of or the compliance with these statutory provisions.

It is beyond the scope of this evaluation to assess whether the current distribution of offences between the contraventions scheme and the AMP schemes is the most appropriate one. What evaluation findings indicate, however, is that a number of federal departments are now planning to move away from the contravention scheme and turn more systematically to the AMP system, based primarily on the premise that the *Contraventions Act* will never be applicable across the

⁶⁴ Ibid, Appendix 2.

⁶⁵ Ibid, p. 33.

⁶⁶ Ibid, p. 7.

country. As such, the decision is no longer based on the actual characteristics and benefits of each scheme, but rather on the fact that one of them (contraventions scheme) will arguably never be fully available, creating inconsistencies that cannot be sustained indefinitely.

As documented throughout this report, the contraventions scheme represents, when available, an efficient option for enforcing a number of statutory offences in a manner that is both efficient and fair. In the event that the Act was to become operational across Canada, it would provide departments with a genuine choice between two schemes that each have their advantages and limitations. This further reinforces the need to make the implementation of the Act in Newfoundland and Labrador, Saskatchewan, and Alberta a departmental priority.

5. CONCLUSIONS

This section of the report presents conclusions based on the findings described in the preceding sections. The information is structured along the core evaluation issues identified for the purpose of this report.

5.1. Program Relevance

The evaluation confirms that the *Contraventions Act* Program is aligned with federal priorities and contributes to the strategic goals of the Department of Justice. It provides a much-needed tool that supports the work of enforcement officers, and ensures that statutory offences designated as contraventions are enforced in a fair and consistent manner. The Program is also well positioned to support upcoming legislative initiatives and changes, which could include, for example, the legalization and regulation of marijuana in Canada.

Considering more specifically the *Contraventions Act* Fund, evaluation findings confirm the central role that it assumes in ensuring that the enforcement of federal contraventions is being done in accordance with all applicable language rights. For as long as the *Contraventions Act* will be enforced using provincial schemes, it can be safely assumed that the Fund will be required. However, while confirming the relevance of the Fund, evaluation findings did not find a substantive rationale for leaving the Fund within the *Roadmap for Canada's Official Languages*.

Evaluation findings also indicate that the relevance of the Program is weakened by two systemic shortcomings. First, the fact that the Act is still not operational in Newfoundland and Labrador, Saskatchewan, and Alberta represents a significant flaw. Canadians who are alleged to have contravened a federal offence designated as a contravention continue to be exposed to uneven treatment based on the location where the alleged offence occurred. This is not compatible with the proper application of the rule of law and a departmental strategy to effectively address this significant issue does not appear to be in place.

Second, evaluation findings indicate that the current scope of offences designated as contraventions should be broadened. There are still too many offences that are not appropriately

enforced because officers lack the proper tool to do so. While each department responsible for the federal acts that are covered by the *Contraventions Act* must participate in reviewing the scope of offences included, the Department of Justice has a leadership role to play to ensure that the Act can achieve its expected outcomes.

5.2. Performance – Effectiveness

The evaluation confirms that an increasing number of offences are being enforced using the ticketing system provided by the *Contraventions Act*. The growth has been particularly significant in the Maritimes. Overall, enforcement officers appear to have access to the training and the tools they require to proceed with the issuance of contravention tickets, but evaluation findings confirm that having to deal with prosecution systems that vary from one province to the next does raise some challenges for federal enforcement authorities. The evaluation also points to the need for appropriate procedures to ensure that fines are being paid, and for fine levels to be reviewed and updated as needed.

As it relates more specifically to the Fund, the evaluation indicates that current agreements have allowed participating provinces to put in place the measures required to ensure that all applicable language rights are upheld during the enforcement and processing of federal contraventions.

The experience gained to date with the Program confirms that it is having positive impacts on key stakeholders:

- Enforcement officers have access to a critical tool that supports their work. There was consensus among officers consulted as part of this evaluation that the ticketing system constitutes an essential tool. In particular, it allows them to use the summary conviction process when the circumstances call for this approach, and not because they have no other viable option.
- To the extent that the Act is operational, it allows Canadians to be treated in a fair and consistent manner that adequately reflects the nature of the offence they are alleged to have contravened. By extension, however, the process used for offences that have occurred in provinces where the Act is not operational continues to expose Canadians to a process that is largely inadequate and unfair.
- The court system also benefits from having the *Contraventions Act* operational. A limited number of tickets are currently being challenged, and all the remaining offences can be

enforced without any involvement from the court system. This is particularly important considering the challenges that the court system in Canada is facing in terms of delays and bottlenecks.

5.3. Performance – Efficiency and Economy

The *Contraventions Act* Implementation Management Team has negotiated new agreements with participating provinces that allows for a more consistent reporting of performance information. Reports provided by these provinces support the ongoing management of the Program, and provide important information for the purpose of evaluating the Program.

The Program continues to offer a cost-effective approach for implementing a ticketing system for federal contraventions. It is far more effective than creating a parallel federal system, which would lead to significant duplication of efforts.

To date, the Program has only used a portion of the funds that have been allocated to it. Until the full implementation of the Act is achieved, it is difficult to assess the extent to which the annual allocations are adequate. In the meantime, however, the Program has only been using between 41% and 60% of its allocated funds.

At the time of this evaluation, there were no viable alternatives to the *Contraventions Act* ticketing system. Unfortunately, a number of federal departments are now focussing their attention on the AMP scheme, in the hope that it can replace the *Contraventions Act* ticketing system. According to interview respondents, this is occurring because these departments fear that the Act will never be operational throughout Canada. While there are circumstances where the AMP scheme is adequate and should be encouraged, it was never meant to replace the ticketing system found in the *Contraventions Act*. Both schemes are different in nature and apply to distinct circumstances. This trend further supports the urgent need to make the implementation of the Act in all provinces a departmental priority.

6. RECOMMENDATIONS

This final section of the report presents the recommendations and management response.

Issue 1: Consistency with the Roadmap for Canada's Official Languages

The evaluation could not ascertain a rationale for integrating the *Contraventions Act* Fund in the Roadmap for Canada's Official Languages. While the 'community pillar' of the Roadmap aims to enhance the vitality of official language minority communities and is pursuant to Part VII of the *Official Languages Act* (OLA), the *Contraventions Act* Fund arises out of Part IV of the OLA. In its 2001 decision, the Federal Court ruled that the federal government was required to take the necessary measures to "ensure that the quasi-constitutional rights provided by... Part IV of the OLA... are respected in any present or future regulations or agreements... that relate to the responsibility for administering the prosecution of federal contraventions."

Thus, unlike other Roadmap funding programs, the *Contraventions Act* Fund was not created to advance a departmental policy position or to contribute to enhancing the vitality of linguistic minority communities, but rather to enable the Department of Justice to fulfil its existing legal duties towards offenders. As such, offenders within the context of federal contraventions linguistic measures are not beneficiaries but rather right holders. The *Contraventions Act* Fund was not created as a response to the duties of federal institutions with respect to subsections 41(1) and 41(2) of the OLA, but in accordance with Part IV of the OLA and sections 530 and 530.1 of the *Criminal Code*.

Recommendation 1:

That the Department of Justice enter into discussions to seek the removal of the *Contraventions Act* Fund from the Roadmap prior to its five-year renewal.

Management Response:

Agreed. The Department will undertake measures needed to remove the *Contraventions Act* Fund from any renewal of a five-year Roadmap / Action Plan on official languages, in collaboration with Canadian Heritage.

Issue 2: Implementation of the *Contraventions Act* in all provinces

Twenty-five years after the establishment of the Act, federal offences designated as contraventions must still be enforced by way of the summary conviction process in Newfoundland and Labrador, Saskatchewan, and Alberta. Canadians who are alleged to have contravened a federal offence designated as a contravention continue, therefore, to be exposed to uneven treatment based on the location where the alleged offence occurred. Further, the Act not being operational throughout the country is not compatible with the proper application of the rule of law.

Despite the sustained efforts on the part of the *Contraventions Act* Implementation Management Team, the Department of Justice has not been able to secure the engagement of those provinces to negotiate agreements.

Recommendation 2:

That the Department of Justice develop a strategy with respect to the implementation of the *Contraventions Act* regime in all provinces.

Management Response:

Agreed. The Department is already in negotiations with Newfoundland and Labrador and anticipates entering into an agreement in early new fiscal year. The Department has also pursued the interest of Alberta and Saskatchewan in implementing a contraventions regime in their respective jurisdictions.

The Department recognizes the risks associated with an inequitable respect of the rule of law across the country due to absence of agreements in the remaining provinces. To that

end, Justice will develop a strategy that will ensure the implementation of the *Contraventions Act* across Canada.

Issue 3: Scope of the *Contraventions Act*

Evaluation findings indicate that the number of offences designated as contraventions should be increased. Only a small fraction of all federal statutory offences can currently be enforced using the ticketing system provided by the *Contraventions Act*, and those statutory offences that are not designated as contraventions are not appropriately enforced because officers lack the proper tool to do so.

The Department of Justice cannot unilaterally increase the number of offences covered under the *Contraventions Act*, as each department responsible for the management and enforcement of these laws and regulations must agree to any such changes. That said, the Department of Justice retains the fundamental responsibility of exercising a leadership role with respect to the Act, such as in the identification of additional offences that could be designated as contraventions.

Recommendation 3:

That the Department of Justice take measures to initiate the identification and designation as contraventions of additional eligible federal statutory offences in collaboration with client departments.

Management Response:

Agreed. The Department will take measures enabling the Contraventions Team to work closely with its client-departments currently involved with contraventions to explore the possibility of increasing the number of offences designated as contraventions and to put in place, in cooperation with Legislative Services and Treasury Board Secretariat, more systematic procedures in order to be kept abreast of legislative changes.

In addition, the Department will take measures to enable the Contraventions Team to explore the appropriateness of expanding the scope of the regime.

**Appendix A:
Logic Model**

Logic Model of the *Contraventions Act* Program

The following section describes the logic of the *Contraventions Act* Program and presents its graphical depiction.

Activities

Legal activities

Provision of legal advice and training

The *Contraventions Act* Team is the centre of expertise on the Act and its application and as such is called upon to provide legal opinions and advice to federal departments and agencies as well as to provincial counterparts on the *Contraventions Act* and the *Official Languages Act* as well as the *Contraventions Regulations* and the *Application of Provincial Laws Regulations*. Topics can include the administration of contraventions, fines and penalties, designation of enforcement authorities, the form of a ticket, incorporation by reference, use of constitutional powers in criminal cases, official languages, procedures, the role of the prosecutor, and designation of contraventions.

The Program also provides legal training through a practice group. Although the practice group is open to all departmental counsel, it focuses on counsel from Departmental Legal Services Units who work on the designation of offences, manage the substantive and regulatory process with drafters and Treasury Board analysts and advise on any legal issue related to the implementation of the scheme.

Regulatory activities

New contraventions: designating federal offences as contraventions

One of the fundamental provisions of the contraventions regime is found in subsection 8.(1) of the *Contraventions Act*. This subsection provides the Governor in Council the authority to make regulations designating as contraventions offences created by any enactment, other than offences for which an offender may be prosecuted only on indictment, establishing short-form descriptions of contraventions and establishing an amount as the amount of the fine for the purposes of proceedings commenced by means of a ticket.

The *Contraventions Act* Team has developed and systematized an approach to designate new contraventions in compliance with s.2 of the Act while partnering with federal departments

engaged in this decriminalization process. The *Contraventions Act* Team also provides advice and assistance to client departments. This approach applies specific objective and subjective criteria that help to identify the applicable criminal procedure to a given offence, its offending nature as prescribed by a federal statute or regulation and assess the seriousness of the offence. For example, the offence should be a minor breach of a regulatory provision, imprisonment is not considered to be an appropriate sentence for the offence and the designation of the offence as a contravention does not trivialize the objective or value that the offence aims to protect. To date, approximately 3,000 offences under federal laws and regulations have been designated as contraventions. The vast majority of key informants consulted as part of the 2010 evaluation of the Act called for an increase of the number of offences designated as contraventions in order to enlarge the scope of the contraventions regime.

Violations that may be designated as contraventions have to be offences of any Act of Parliament or regulations published in Part II of the Canada Gazette and are offences that may be prosecuted by summary conviction.

Amended Contraventions Regulations

The *Contraventions Regulations*, made under subsection 8.(1) of the *Contraventions Act*, lists all federal statutory offences that are to be treated as contraventions and includes a short-form description of the offence as well as the amount of the fine for each one.

The *Contraventions Act* Team amends the *Contraventions Regulations* when new offences are designated as contraventions. Furthermore, in order to avoid interpretation and enforcement issues and to maintain coherence, the *Contraventions Act* Team must amend the *Contraventions Regulations* when amendments to the provision in the primary act or regulations containing the offences have been performed.

Amending the *Contraventions Regulations* involves providing advice to the client departments, preparing regulatory process documents in conformity with Treasury Board requirements, partnering with Justice Headquarters Regulations Section and Cabinet Affairs, and Treasury Board, Cabinet Committee Operations Division.

While there are about 3,000 contraventions listed in the *Contraventions Regulations*, there are over 18,000 existing offences that could be designated as contraventions but currently are not.

Amended Application of Provincial Laws Regulations

In order to permit the prosecution of federal contraventions in accordance with the ticketing procedural scheme of each province and territory, Parliament uses the technique of incorporation by reference.

In light of the diversity and complexity of the existing provincial and territorial schemes, incorporating provincial laws with respect to prosecution within the *Contraventions Act* itself would have been a monumental task with the potential for numerous omissions. The incorporation of provincial systems by way of regulation accommodates practical requirements of flexibility and effectiveness and ensures there is a better link between the federal and provincial legislation in this regard.

Sections 65.1 to 65.3 of the *Contraventions Act* provide the legal and administrative framework for the use of a provincial or territorial offence scheme. As such, incorporation by reference of the provincial offence scheme makes it possible to use the procedures of that province for elements such as the lay-out of the ticket, the locations where voluntary payments may be made, the time within which the offender may elect to acknowledge or deny his or her guilt, etc.

Under section 65.1, the Governor in Council has made the *Application of Provincial Laws Regulations* which identifies, in its schedule, the laws of each province and territory which apply to contraventions and also notes the necessary changes that are to apply to these laws. Changes noted include equivalency of terminology between the terms used in the *Contraventions Act* and those used in the provincial statutes as well as exclusion of any provision that comes in conflict with the principles set out in the Act.

Amending the *Application of Provincial Laws Regulations* is necessary before an administration and enforcement agreement can be signed with a given province or where amendments to provincial statutes or regulations which are applicable to federal contraventions have been performed. Although this activity is the responsibility of the *Contraventions Act* Team, provincial counterparts are advised of the progress and invited to comment on the amendments before they are approved.

Implementation activities

Signed agreements with language rights and funding provisions

Section 65.2 of the Act allows the Minister of Justice to sign agreements with provinces. The agreements are termed “Administration and Enforcement Agreements” and include provisions dealing with the undertakings of Canada (typically regarding informing of changes to the Contraventions Regulations, training and prosecutions), and the undertakings of the province or territory (typically regarding sharing of fine revenues, language requirements, administration of tickets, communication and training required of court personnel and enforcement officers) and provisions related to funding the measures that provinces undertake on the federal government’s behalf to ensure that language rights are respected and that are funded under the *Contraventions Act* Fund.

The *Contraventions Act* Fund is a transfer payment program whose objective is to implement, in cooperation with the provinces, territories and municipalities, measures to ensure the use of both official languages in proceedings instituted under the *Contraventions Act*. It is an essential element of the *Contraventions Act* Program, as without this Fund, it would be difficult to implement the *Contraventions Act* in the provinces in a manner that respects language rights in an efficient manner. Provisions dealing with the conditions of funding are contained in the Administration and Enforcement Agreement and respect the Treasury Board’s *Policy on Transfer Payments*.

The *Contraventions Act* Team works diligently to move negotiations forward toward getting the provinces or territories to sign Administration and Enforcement Agreements. However, provinces and territories must dedicate time and resources to work with the federal government to discuss the various undertakings required to fully implement the Act. Progress depends largely on the priorities and capacity of the provinces.

The key outputs relating to Implementation Activities are *Amended Application of Provincial Laws Regulations*, and Signed Administration and Enforcement Agreements.

Direct outcomes

Federal and provincial counterparts are better informed

Legal advice and opinions that the *Contraventions Act* Team provides to federal departments and agencies as well as to provincial counterparts result in a better understanding of the Act and an enlightened decision making process with regard to the use of the contraventions regime as an

instrument of choice for federal statutory offences Successful implementation of the Act across Canada is dependent upon our federal and provincial partners having a clear understanding of the *Contraventions Act* and the *Official Languages Act*.

Enforcement authorities are better equipped to fulfill their duties

By having the option of using a ticket, enforcement officers are better equipped to enforce federal contraventions. A more straightforward ticketing system, compared to the summary conviction process, acts as an incentive for officers to support a stronger enforcement of federal statutory offences.

Jurisdictions are equipped to administer and enforce federal contraventions

Jurisdictions will be able to administer and enforce federal contraventions. This entails a range of activities that are enshrined in the Administration and Enforcement Agreements and typically include modifications to information management systems so that they can accept federal contraventions and provide statistical information, training of various staff, court staff and enforcement officers, amendments, printing and distribution of bilingual tickets, and measures guaranteeing language rights.

Measures guaranteeing language rights are in place

The Administration and Enforcement Agreements also contain provisions regarding the funding of measures guaranteeing language rights, which are funded through the *Contraventions Act* Fund. These measures are in place and available once the Administration and Enforcement Agreement is signed and the regime is established. Measures typically include judges and justices of the peace who are bilingual, counter staff and reception staff who are able to provide services in official languages, toll-free information lines, bilingual web sites, court interpretation services, etc.

Intermediate outcomes

Federal offences are enforced in an efficient and reliable manner for governments and courts

By having federal statutory offences designated as contraventions and administered and enforced through a provincial ticketing regime, federal offences that may have previously only been dealt with by issuing a warning, or conversely, by way of summary conviction proceedings, are enforceable in a manner that ensures that the law will be respected. The use of provincial ticketing regimes is an efficient and reliable manner to administer contraventions, using much less of the

courts' resources when compared to the summary conviction process. As well, some provincial regimes may allow for the use of sanctions as a consequence of nonpayment of fines.

Federal statutory offences that are more readily enforced support the fundamental role of Parliament to secure the integrity of the rule of law.

Reduced burdens for offenders, courts and federal government

The *Contraventions Act* offers benefits for the offender. The Act establishes a much clearer distinction between criminal and regulatory offences. Under the summary conviction process, alleged offenders must appear in court, even if it is to enter a guilty plea. Practically speaking, it means that someone who is accused by way of summary conviction would systematically end up in a criminal court that is also hearing criminal cases. By having the opportunity to pay the fine directly, the vast majority of individuals who are issued a contraventions ticket never interact with the court. In light of the distinction between criminal and regulatory offences, the Act abolishes the consequences in law of being convicted of a contravention: an offender does not have a criminal record. This is a significant change, given the impact that a criminal record can have on an individual's ability to practice certain professions, find a job or even travel.

As well, the ability to pay a fine that is associated with a contraventions ticket also means that the person does not need to seek legal representation. The ticketing system offers the ability for the offender to deal quickly with a fine. Instead of having to wait for the summary conviction process to be initiated, the person who was issued a contraventions ticket and who does not wish to challenge that offence can pay immediately and close the file.

The implementation of the Act brings greater certainty and consistency in the way that federal statutory offences designated as contraventions are enforced. By having a set fine, Canadians can expect the same treatment wherever the Act is currently operational.

The *Contraventions Act* offers benefits for the courts. The summary conviction process uses the court's limited time and resources. Even if an accused person wishes to enter a guilty plea to a summary conviction offence, he or she must proceed with a first appearance in court to enter that plea, which takes up the time of the judge (or justice of the peace), prosecutor and court personnel. The *Contraventions Act* provides an alternative to this process.

The *Contraventions Act* offers benefits for governments. At the federal level, the Act supports the fundamental role of Parliament to secure the integrity of the rule of law. By allowing the government to use existing provincial prosecution regimes to prosecute federal contraventions, the

Act allows for an efficient and reliable method to administer and enforce contraventions. At the provincial level, the collection and sharing of fines and fees related to federal contraventions allows for a compensation that would not otherwise be possible and allows the administration of federal contraventions to be undertaken in a cost neutral manner.

Language rights are respected

Provinces that enforce federal contraventions are acting on behalf of the federal government and, as such, must uphold all language rights applicable to the prosecution of a federal offence. The *Contraventions Act* Fund plays a pivotal role in this regard by providing provinces and territories with funding to support measures.

Upon signing of an agreement, provinces are fully prepared to offer trials dealing with federal contraventions in a manner consistent with language rights protected in sections 530 and 530.1 of the *Criminal Code*. Each province has built the capacity to uphold these rights, which can be addressed in advance once a person alleged to have committed a federal contravention opts for a trial in French. As well, provinces must have in place measures to actively offer extra-judicial services in both official languages in all court locations covered by Part IV of the *Official Languages Act*.

Long term outcomes

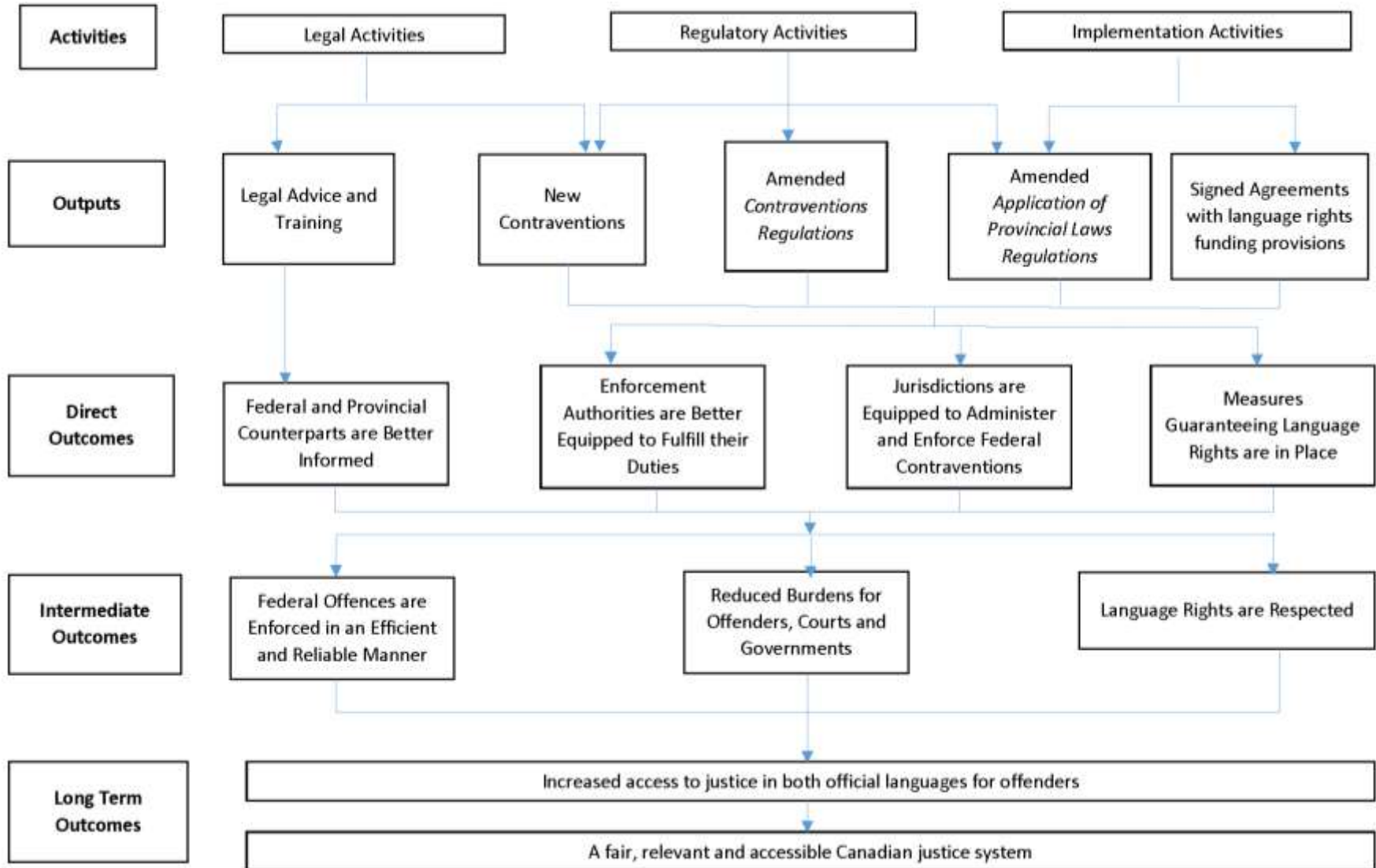
The ultimate outcome of the *Contraventions Act* Program is: Increased access to justice in both official languages for offenders.

The combined efforts of both federal and provincial key players will result in a more equitable and efficient manner to enforce federal contraventions in a manner that respects language rights and actively offers services in both official languages.

Links to the strategic outcome of Justice Canada

Overall, the *Contraventions Act* Program is linked to the departmental strategic outcome of a fair, relevant and accessible Canadian justice system.

Contraventions Act Program Logic Model



Appendix B:
Evaluation Matrix

Evaluation Matrix

Evaluation issues and questions	Indicators	Data sources
Relevance		
1. How is the implementation of the Act and Fund aligning with federal priorities as they relate to statutory offences and official languages? How does it relate to the strategic priorities of the Department?	<ul style="list-style-type: none"> • Department of Justice mandate and strategic objectives, including objectives related to the administration of justice • Canada’s priorities related to the administration of justice and official languages • Current capacity of federal departments to adequately enforce statutory offences 	Document and file review Interviews
2. Is the current range of statutory offences designated as contraventions adequate? Should it be expanded?	<ul style="list-style-type: none"> • Current capacity of federal departments to adequately enforce statutory offences • Objectives of other federal departments as they relate to the designation of additional statutory offences as contraventions 	Document and file review Interviews
3. Is the Fund an appropriate mechanism to ensure the compliance with official language requirements outlined in the <i>Contraventions Act</i> ?	<ul style="list-style-type: none"> • Capacity of provincial governments and enforcement authorities to offer services in both official languages • Nature of challenges faced by enforcement authorities and provincial governments in implementing the Act 	Document and file review Interviews
4. How is the implementation of the Act and Fund aligning with the needs of enforcement authorities?	<ul style="list-style-type: none"> • Nature of challenges faced by enforcement authorities • Access to required information and training • Adequacy of ticketing system 	Document and file review Interviews Site visits
Performance — effectiveness		
5. To what extent is the Act operational across Canada? What is the strategy of the Department in relation to jurisdictions where the Act is not operational?	<ul style="list-style-type: none"> • Number of provincial schemes incorporated • Number of <i>Contraventions Act</i> agreements signed • Nature of challenges in expanding the implementation of the Act to all provinces 	Document and file review Interviews
6. What are the impacts of having the Act not operational in some provinces? Does this create legal risks?	<ul style="list-style-type: none"> • Variations in the process and impact of having contraventions enforced through ticketing and other types of procedures • Expected impact on the rule of law 	Document and file review Interviews
7. What are the current patterns of offences relating to federal contraventions? Are federal offences designated as contraventions more readily enforced as a result of the Act?	<ul style="list-style-type: none"> • Number of tickets issued • Types of contraventions covered by tickets issued to date • Variations in the number and types of federal statutory offences prosecuted 	Document and file review Site visits

Evaluation issues and questions	Indicators	Data sources
8. What is the range of activities supported by the Fund to ensure the compliance with official language requirements under the Act? Are there any gaps that may impact the federal government’s ability to comply with these requirements?	<ul style="list-style-type: none"> • Types of activities funded • Stakeholder opinions 	Document and file review Interviews Site visits
9. Are enforcement authorities better equipped as a result of the implementation of the Act?	<ul style="list-style-type: none"> • Directives and operational procedures to deal with federal statutory offences (designated or not as contraventions) • Access to required information and training 	Document and file review Interviews Site visits
10. What impact, if any, has the implementation of the Act and Fund had on the court system?	<ul style="list-style-type: none"> • Percentage of tickets relating to federal contraventions that are not challenged in court • Proportion of trials heard that relate to federal contraventions (as opposed to other types of federal or provincial offences) • Number of trials heard in the minority language 	Document and file review Interviews Site visits
11. Are reports submitted by the provinces sufficient to meet the accountability requirements of the Department?	<ul style="list-style-type: none"> • Extent and quality of reporting 	Document and file review Interviews
Performance — efficiency and economy		
12. Do the Act and Fund provide a cost-effective approach to enforcing statutory offences designated as contraventions?	<ul style="list-style-type: none"> • Overall federal costs associated with the implementation of the Act (including the <i>Contraventions Act</i> Fund) • Estimated provincial costs of processing federal statutory offences through the summary conviction process (as opposed to the ticketing system) 	Document and file review Interviews Site visits
13. Does the Act provide a fairer approach to enforcing statutory offences designated as contraventions?	<ul style="list-style-type: none"> • Procedural differences between the ticketing system and the summary conviction process • Avoided impact (social and economic) associated with a criminal record • Impact of imposing a reduced sentence 	Document and file review Interviews Site visits
14. Are there any alternative approaches to achieving the Fund’s objectives in terms of implementing the language requirements of the <i>Contraventions Act</i> ?	<ul style="list-style-type: none"> • Stakeholder opinions 	Interviews

Appendix C:
Data collection Instruments

Evaluation of the *Contraventions Act* Program Interview Guide for Court Managers

The Department of Justice Canada is conducting an evaluation of the *Contraventions Act* Program, including the *Contraventions Act* itself and the *Contraventions Act* Fund which supports the implementation of the Act. The evaluation will deal with the implementation and administration of the Act and Fund, as well as issues including their relevance and performance (effectiveness, efficiency and economy). It covers a three-year period, beginning with fiscal year 2013-14 and ending with fiscal year 2015-16. Justice Canada hired PRA Inc. to support this evaluation process.

As part of the evaluation, we will be conducting interviews with a range of key informants involved in the implementation of the Act. The information we gather will be summarized in aggregate form, which means you will not be identified in any way. Additionally, your participation in this interview is voluntary and you may withdraw from the study at any time. If there are specific questions that you would prefer not to answer or that you feel you do not have the information to address, please let us know and we will continue on to the next question.

Introduction

1. Could you describe your current role and responsibilities and how they relate to the implementation of the *Contraventions Act*?

Implementation of the *Contraventions Act* Program

Contraventions Act

2. Could you describe the process you have used to implement the *Contraventions Act* in your court? Who was involved in this process? What activities (such as recruiting and training) have you used during this process?
3. What challenges have you faced during the implementation of the *Contraventions Act*? How have you addressed these challenges?
4. What are the differences between enforcing a federal contravention and a provincial offence? Please elaborate.

Contraventions Act Fund

5. Can you describe the extent to which your court is able to offer services in both official languages in the following circumstances:
 - a. When a person comes to the registry to pay a fine associated with a federal contravention?
 - b. When a person contacts the court by telephone to receive additional information about the contravention ticket that they received?
 - c. When a person appears before the court (usually a justice of the peace), to plead guilty of the contravention entered on the ticket, but with the intention of providing extenuating circumstances in order to reduce the fine imposed?
 - d. When a person wishes to challenge the charge written up in the ticket for committing a contravention?

Reporting and statistics

6. What data do you have on the number and types of federal contraventions that have been enforced in your court? Is it possible to access this data? If so, how?
7. What data do you have on the number of provincial offences enforced in your court (e.g., number of tickets issued, number of cases where individuals have entered a guilty plea with explanations, number of trials)? Is it possible to access this data?
8. Could you describe the reporting system between your court and the provincial ministry, as it relates to the implementation of the *Contraventions Act*? Have you faced any challenges in meeting these reporting requirements? If so, how did you address these challenges?

Results

9. One of the main goals of the *Contraventions Act* is to facilitate the enforcement of federal laws and regulations by enforcement authorities. In your opinion, please describe the extent to which the *Contraventions Act* has reached this goal.
10. Are there any aspects of the *Contraventions Act* that could be improved? If so, which ones?

11. In your opinion and based on your experience, does the *Contraventions Act* make the legal system fairer? Does it make the process more efficient? Please elaborate.

Conclusion

12. Do you have any questions or comments about elements that we have not discussed?

Thank you for your participation.

Evaluation of the *Contraventions Act* Program Interview Guide for Enforcement Authorities

The Department of Justice Canada is conducting an evaluation of the *Contraventions Act* Program, including the *Contraventions Act* itself and the *Contraventions Act* Fund which supports the implementation of the Act. The evaluation will deal with the implementation and administration of the Act and Fund, as well as issues including their relevance and performance (effectiveness, efficiency and economy). It covers a three-year period, beginning with fiscal year 2013-14 and ending with fiscal year 2015-16. Justice Canada hired PRA Inc. to support this evaluation process.

As part of the evaluation, we will be conducting interviews with a range of key informants involved in the implementation of the Act. The information we gather will be summarized in aggregate form, which means you will not be identified in any way. Additionally, your participation in this interview is voluntary and you may withdraw from the study at any time. If there are specific questions that you would prefer not to answer or that you feel you do not have the information to address, please let us know and we will continue on to the next question.

Introduction

1. Could you describe your current role and responsibilities? With whom do you work?
2. The federal government adopted the *Contraventions Act* to allow enforcement officers to issue tickets instead of having to launch criminal procedures leading to a summary conviction of offenders. Could you describe the impact of this process on the work of your organization?
3. In your opinion, is there a need for such a ticketing system to enforce federal statutory offences? Please elaborate.

Offences sanctioned by a contravention

4. Did your organization offer training specific to the application of the *Contraventions Act*? If so, who provided and who attended the training? How satisfied were you with this training? If training was not provided, is such training required? Please elaborate.
5. Could you describe the process that you currently use to enforce federal statutory offences that have been designated as federal contraventions? How do enforcement officers make the decision to issue a ticket to a contravener? Do they have any discretion? To what extent?

6. What instruments or tools (e.g., guide, manual) do enforcement officers have at their disposal to support their work relating to federal contraventions?
7. How satisfied are you with the existing system relating to federal contraventions? What are the benefits of this system? What challenges do you face with issuing tickets?
8. In your opinion, should the ticketing system contained in the *Contraventions Act* be expanded to other federal statutory offences? If so, which ones?

Offences sanctioned by a summary conviction

9. Could you describe the various steps that enforcement officers go through when enforcing a federal statutory offence by way of the summary conviction process? What interaction will they have with prosecutors and court personnel?
10. What are the benefits of proceeding by way of summary conviction? What are the challenges associated with this procedure?
11. When it comes to federal statutory offences, under what circumstances would it be preferable to proceed by way of summary conviction rather than a ticketing system?

Implementation of the *Contraventions Act* Fund

12. Can you describe the extent to which enforcement officers are aware of the language requirements related to the *Contraventions Act*?
13. Did your organization offer training specific to the language requirements related to the *Contraventions Act*? If so, who provided and who attended the training? How satisfied were you with this training? If training was not provided, is such training required? Please elaborate.
14. What instruments or tools do enforcement officers have at their disposal to ensure they comply with the language requirements related to the *Contraventions Act*?

Conclusion

15. In your opinion, and based on your experience, does the *Contraventions Act* make the enforcement of federal statutory offences fairer? Does it make the process more efficient? Please elaborate.

16. Do you have any questions or comments on elements that we have not discussed?

Thank you for your participation.

Evaluation of the *Contraventions Act* Program Interview Guide for Enforcement Officers

The Department of Justice Canada is conducting an evaluation of the *Contraventions Act* Program, including the *Contraventions Act* itself and the *Contraventions Act* Fund, which supports the implementation of the Act. The evaluation will deal with the implementation and administration of the Act and Fund, as well as issues including their relevance and performance (effectiveness, efficiency and economy). It covers a three-year period, beginning with fiscal year 2013-14 and ending with fiscal year 2015-16. Justice Canada hired PRA Inc. to support this evaluation process.

As part of the evaluation, we will be conducting interviews with a range of key informants involved in the implementation of the Act. The information we gather will be summarized in aggregate form, which means you will not be identified in any way. Additionally, your participation in this interview is voluntary and you may withdraw from the study at any time. If there are specific questions that you would prefer not to answer or that you feel you do not have the information to address, please let us know and we will continue on to the next question.

Introduction

1. Could you describe your current role and responsibilities as an enforcement officer? With whom do you work?
2. Your province has implemented the federal contraventions regime that allows enforcement officers to issue tickets for federal contraventions instead of having to launch criminal procedures leading to a summary conviction of offenders. Could you describe the impact of this process on your work?
3. In your opinion, is there a need for such a ticketing system to enforce federal statutory offences? Please elaborate.

Offences sanctioned by a contravention

4. Did you receive any training specific to the application of the *Contraventions Act*? If so, who provided the training? How satisfied were you with this training? If you did not receive training, is such training required? Please elaborate.

5. Could you describe the process that you currently use to enforce federal statutory offences that have been designated as contraventions? How do you make the decision to issue a ticket to a contravener? Do you have any discretion? To what extent?
6. What instruments or tools (e.g., guide, manual) do you have at your disposal to support your work relating to federal contraventions?
7. How satisfied are you with the existing system relating to federal contraventions? What are the benefits of this system? What challenges do you face with issuing tickets?
8. In your opinion, should the ticketing system contained in the *Contraventions Act* be expanded to other federal statutory offences? If so, which ones?

Offences sanctioned by a summary conviction

9. Could you describe the various steps that you go through when enforcing a federal statutory offence by way of the summary conviction process? What interaction will you have with prosecutors and court personnel?
10. What are the benefits of proceeding by way of summary conviction? What are the challenges associated with this procedure?
11. When it comes to federal statutory offences, under what circumstances would it be preferable to proceed by way of summary conviction rather than a ticketing system?

Implementation of the *Contraventions Act* Fund

12. Can you describe the extent to which you are aware of the language requirements related to the *Contraventions Act*?
13. Did your organization offer training specific to the language requirements related to the *Contraventions Act*? If so, who provided the training? Did you attend the training? How satisfied were you with this training? If training was not provided, is such training required? Please elaborate.
14. What instruments or tools do you have at your disposal to ensure that you are complying with the language requirements related to the *Contraventions Act* when issuing a ticket to a contravener?

Conclusion

15. In your opinion, and based on your experience, does the *Contraventions Act* make the enforcement of federal statutory offences fairer? Does it make the process more efficient? Please elaborate.
16. Do you have any questions or comments on elements that we have not discussed?

Thank you for your participation.

Evaluation of the *Contraventions Act* Program

Interview Guide for representatives from other federal departments

The Department of Justice Canada is conducting an evaluation of the *Contraventions Act* Program, including the *Contraventions Act* itself and the *Contraventions Act* Fund, which supports the implementation of the Act. The evaluation will deal with the implementation and administration of the Act and Fund, as well as issues including their relevance and performance (effectiveness, efficiency and economy). It covers a three-year period, beginning with fiscal year 2013-14 and ending with fiscal year 2015-16. Justice Canada hired PRA Inc. to support this evaluation process.

As part of the evaluation, we will be conducting interviews with a range of key informants involved in the implementation of the Act. The information we gather will be summarized in aggregate form, which means you will not be identified in any way. Additionally, your participation in this interview is voluntary and you may withdraw from the study at any time. If there are specific questions that you would prefer not to answer or that you feel you do not have the information to address, please let us know and we will continue on to the next question.

Introduction

1. Could you describe your current role and responsibilities? To date, what has been your role in relation to the *Contraventions Act*?

Relevance

2. Your department has decided to use contraventions as a means of enforcing some of its statutory offences. Based on your experience, could you describe how this decision was made? Could you describe what the key considerations behind this decision were?
3. As far as you know, is your department planning to expand the current scope of the *Contraventions Act*'s application to other offences that are under its authority? If so, could you briefly summarize the strategy or process that your department intends to follow?
4. Could you indicate who is enforcing laws and regulations on behalf of your department? Is there a specific enforcement unit that has been designated (federal, provincial, municipal, or other)?
5. Could you describe the implications, if any, for your department to have access to the procedures related to the *Contraventions Act* (i.e., a ticketing system)?

6. Has your department faced difficulties or challenges in enforcing some of its laws and regulations? If so, what have they been? Do you have some understanding of the factors that may contribute to these challenges?
7. Generally speaking, how useful is the *Contraventions Act* as a tool to reach some of your department's goals?

Enforcement of contraventions

8. Could you describe the current process used to administer contraventions for which your department is responsible in the provinces where the *Contraventions Act* is operational?
9. How satisfied are you with this process? Could you elaborate on any challenges or lessons learned with this process?
10. What is the process used for administrating federal offences for which your department is responsible in the provinces where the *Contraventions Act* is not operational?
11. What are the impacts, if any, of the Act being non-operational in some provinces? Does this create legal risks?

Statistics and data

12. Does your department have any data about the enforcement of its laws and regulations? If yes, do you keep track of the number and type of offences that have been designated as contraventions? If so, how can we access this data? If not, do you know of any organization that would have these statistics available? Do you know how many contraveners are fined or prosecuted each year?

Results

13. One of the main goals of the *Contraventions Act* is to facilitate the enforcement of federal laws and regulations by enforcement authorities. Please describe the extent to which the *Contraventions Act* has reached this goal.
14. In your opinion, to what extent has the *Contraventions Act* Fund allowed the federal government to comply with official language requirements?

15. Are there any aspects of the *Contraventions Act* and *Contraventions Act* Fund that could be improved?
16. In your opinion, and based on your experience, does the *Contraventions Act* make the legal system fairer? Please elaborate.
17. If applicable, please describe strategies, other than those of the Fund's implementation, that would make it possible to achieve the same results, but in a more effective manner.

Conclusion

18. Do you have any questions or comments on elements that we have not discussed?

Thank you for your participation.

Evaluation of the *Contraventions Act* Program

Interview Guide for representatives of the Department of Justice

The Department of Justice Canada is conducting an evaluation of the *Contraventions Act* Program, including the *Contraventions Act* itself and the *Contraventions Act* Fund, which supports the implementation of the Act. The evaluation will deal with the implementation and administration of the Act and Fund, as well as issues including their relevance and performance (effectiveness, efficiency and economy). It covers a three-year period, beginning with fiscal year 2013-14 and ending with fiscal year 2015-16. Justice Canada hired PRA Inc. to support this evaluation process.

As part of the evaluation, we will be conducting interviews with a range of key informants involved in the implementation of the Act. The information we gather will be summarized in aggregate form, which means you will not be identified in any way. Additionally, your participation in this interview is voluntary and you may withdraw from the study at any time. If there are specific questions that you would prefer not to answer or that you feel you do not have the information to address, please let us know and we will continue on to the next question.

Introduction

1. Could you describe your current role and responsibilities and how they relate to the implementation of the *Contraventions Act*?

Relevance

2. Please describe how the implementation of the *Contraventions Act* aligns with the activities and priorities of the Department.
3. To date, the federal government has used existing provincial prosecution schemes to prosecute federal contraventions, as opposed to creating a new federal structure as authorized by the Act (through sections that have yet to come into force). In your opinion, is this still the most appropriate approach for the implementation of the *Contraventions Act*?
4. To what extent is the *Contraventions Act* Fund aligned with the purpose and objectives of the Roadmap for Canada's Official Languages 2013-2018? Please elaborate.

Implementation of the *Contraventions Act* Program

Contraventions Act

5. What challenges, if any, has the Department faced during the implementation of the *Contraventions Act*? How have you addressed these challenges?
6. Please describe the process leading to the negotiation and signing of agreements with provincial governments for the implementation of the *Contraventions Act*. Are there any changes that should be implemented to improve this process? If so, which ones?
7. What are the impacts, if any, of the *Contraventions Act* being non-operational in some provinces? Does this create legal risks? What is your strategy relating to these jurisdictions where the Act is not operational?
8. As far as you know, have enforcement authorities faced difficulties or challenges in enforcing laws and regulations designated as contraventions? Do you have some understanding of the factors that may contribute to these challenges?

Contraventions Act Fund

9. Please describe the process leading to the identification of activities required by a province and funded by the *Contraventions Act* Fund. To what extent is the current list of funded activities adequate?
10. Can you describe what you consider to be the main challenges, if any, faced by the Department in relation to the implementation of the *Contraventions Act* Fund? What is your strategy to address these challenges?

Results

Contraventions Act

11. One of the main goals of the *Contraventions Act* is to facilitate the enforcement of federal laws and regulations by enforcement authorities. Please describe the extent to which the *Contraventions Act* has reached this goal.
12. What aspects of the *Contraventions Act*, if any, could be improved?

13. In your opinion and based on your experience, does the *Contraventions Act* make the legal system fairer? Does it make the process more efficient? Please elaborate.

Contraventions Act Fund

14. In your opinion, to what extent has the implementation of the Fund allowed the federal government to comply with official language requirements?

15. What have been the most significant challenges arising from the implementation of the Fund?

16. If applicable, please describe strategies, other than those of the Fund's implementation, that would make it possible to achieve the same results, but in a more effective manner?

Reporting and statistics

17. To date, have provincial governments submitted all financial and activity reports as described in the *Contraventions Act* agreements? Have you faced any particular challenges in obtaining these reports?

18. What data do you have on the number and the types of federal contraventions that have been enforced in each province? Is this information sufficient to meet your needs?

Conclusion

19. Do you have any other comments?

Thank you for your participation.

Evaluation of the *Contraventions Act* Program Interview Guide for Legal Counsel

The Department of Justice Canada is conducting an evaluation of the *Contraventions Act* Program, including the *Contraventions Act* itself and the *Contraventions Act* Fund, which supports the implementation of the Act. The evaluation will deal with the implementation and administration of the Act and Fund, as well as issues including their relevance and performance (effectiveness, efficiency and economy). It covers a three-year period, beginning with fiscal year 2013-14 and ending with fiscal year 2015-16. Justice Canada hired PRA Inc. to support this evaluation process.

As part of the evaluation, we will be conducting interviews with a range of key informants involved in the implementation of the Act. The information we gather will be summarized in aggregate form, which means you will not be identified in any way. Additionally, your participation in this interview is voluntary and you may withdraw from the study at any time. If there are specific questions that you would prefer not to answer or that you feel you do not have the information to address, please let us know and we will continue on to the next question.

Introduction

1. Could you describe your current role and responsibilities within the Legal Services Unit? To date, what has been your role in relation to the *Contraventions Act*?

Relevance

2. Your client department has decided to use contraventions as a means of enforcing some of its statutory offences. Based on your experience, could you describe how this decision was made? Could you describe what the key considerations behind this decision were?
3. As far as you know, is your client department planning to expand the current scope of the *Contraventions Act*'s application to other offences that are under its authority? If so, could you briefly summarize the strategy or process that your client department intends to follow?
4. Could you indicate who is enforcing laws and regulations on behalf of your client department? Is there a specific enforcement unit that has been designated (federal, provincial, municipal, or other)?
5. Could you describe the implications, if any, for your client department to have access to the procedures related to the *Contraventions Act* (i.e., a ticketing system)?

6. Has your client department faced difficulties or challenges in enforcing some of its laws and regulations? If so, what have been these challenges? Do you have some understanding of the factors that may contribute to these challenges?
7. Generally speaking, how useful is the *Contraventions Act* as a tool to reach some of your client department's goals?

Enforcement of contraventions

8. Could you describe the current process used to administer contraventions for which your client department is responsible in the provinces where the *Contraventions Act* is operational?
9. How satisfied are you with this process? Could you elaborate on any challenges or lessons learned with this process?
10. What is the process used for administering federal offences for which your client department is responsible in the provinces where the *Contraventions Act* is not operational?
11. What are the impacts, if any, of the Act being non-operational in some provinces? Does this create legal risks?

Statistics and data

12. Does your client department have any data about the enforcement of its laws and regulations? If yes, do you keep track of the number and type of offences that have been designated as contraventions? If so, how can we access this data? If not, do you know of any organization that would have these statistics available? Do you know how many contraveners are fined or prosecuted each year?

Results

13. One of the main goals of the *Contraventions Act* is to facilitate the enforcement of federal laws and regulations by enforcement authorities. Please describe the extent to which the *Contraventions Act* has reached this goal.
14. In your opinion, to what extent has the *Contraventions Act* Fund allowed the federal government to comply with official language requirements?

15. Are there any aspects of the *Contraventions Act* and *Contraventions Act* Fund that could be improved?
16. In your opinion, and based on your experience, does the *Contraventions Act* make the legal system fairer? Please elaborate.
17. If applicable, please describe strategies, other than those of the Fund's implementation, that would make it possible to achieve the same results, but in a more effective manner.

Conclusion

18. Do you have any questions or comments on elements that we have not discussed?

Thank you for your participation.

Evaluation of the *Contraventions Act* Program Interview Guide for Public Prosecution Services Management

The Department of Justice Canada is conducting an evaluation of the *Contraventions Act* Program, including the *Contraventions Act* itself and the *Contraventions Act* Fund, which supports the implementation of the Act. The evaluation will deal with the implementation and administration of the Act and Fund, as well as issues including their relevance and performance (effectiveness, efficiency and economy). It evaluation covers a three-year period, beginning with fiscal year 2013-14 and ending with fiscal year 2015-16. Justice Canada hired PRA Inc. to support this evaluation process.

As part of the evaluation, we will be conducting interviews with a range of key informants involved in the implementation of the Act. The information we gather will be summarized in aggregate form, which means you will not be identified in any way. Additionally, your participation in this interview is voluntary and you may withdraw from the study at any time. If there are specific questions that you would prefer not to answer or that you feel you do not have the information to address, please let us know and we will continue on to the next question.

Introduction

1. Could you briefly describe your role and responsibilities and how they relate to the enforcement of federal statutory offences?

Court procedures

2. Could you describe the process used for federal offences that have been designated as contraventions? What procedures does your service follow when someone decides to challenge the ticket he received?
3. What are the benefits of proceeding by way of summary conviction (as opposed to the procedure established through the *Contraventions Act*)? What are the challenges, if any, associated with this measure?
4. What would be the key differences in the duties of your prosecutors when they prosecute an individual under a federal statutory offence as opposed to a provincial one? Please elaborate.

Implementation of the *Contraventions Act* Program

5. With the implementation of the *Contraventions Act*, enforcement officers have the option of issuing a ticket in relation to a federal statutory offence that has been designated as a contravention. Based on your experience, has the implementation of this process had an impact on the function of your prosecutors? Please elaborate.
6. How are prosecutors informed about the *Contraventions Act*? Do they receive materials or training? How satisfied are you with this process?
7. Have you encountered any challenges or difficulties in the application of the *Contraventions Act*? If so, what were they? How did you address them?
8. In your opinion, should the scope of the *Contraventions Act* be expanded to include other federal statutory offences? If so, in which areas?
9. Based on your experience, can you describe the extent to which the courts are able to offer services in both official languages when a person wishes to challenge the charge for committing a contravention written up in the ticket?

Results

10. One of the main goals of the *Contraventions Act* is to facilitate the enforcement of federal laws and regulations by enforcement authorities. Please describe the extent to which the *Contraventions Act* has reached this goal.
11. Are there aspects of the *Contraventions Act* that could be improved?
12. In your opinion, and based on your experience, does the *Contraventions Act* make the legal system fairer? Does it make the process more efficient? Please elaborate.

Conclusion

13. Do you have any questions or comments on elements that we have not discussed?

Thank you for your participation.

Evaluation of the *Contraventions Act* Program Interview Guide for Public Prosecution Services

The Department of Justice Canada is conducting an evaluation of the *Contraventions Act* Program, including the *Contraventions Act* itself and the *Contraventions Act* Fund, which supports the implementation of the Act. The evaluation will deal with the implementation and administration of the Act and Fund, as well as issues including their relevance and performance (effectiveness, efficiency and economy). It evaluation covers a three-year period, beginning with fiscal year 2013-14 and ending with fiscal year 2015-16. Justice Canada hired PRA Inc. to support this evaluation process.

As part of the evaluation, we will be conducting interviews with a range of key informants involved in the implementation of the Act. The information we gather will be summarized in aggregate form, which means you will not be identified in any way. Additionally, your participation in this interview is voluntary and you may withdraw from the study at any time. If there are specific questions that you would prefer not to answer or that you feel you do not have the information to address, please let us know and we will continue on to the next question.

Introduction

1. Could you briefly describe your role and responsibilities and how they relate to the enforcement of federal statutory offences?

Court procedures

2. Could you describe the process used for federal offences that have been designated as contraventions? What procedures do you follow when someone decides to challenge the ticket he received?
3. What are the benefits of proceeding by way of summary conviction (as opposed to the procedure established through the *Contraventions Act*)? What are the challenges, if any, associated with this measure?
4. What would be the key differences in your duties when you prosecute an individual under a federal statutory offence as opposed to a provincial one? Please elaborate.

Implementation of the *Contraventions Act* Program

5. With the implementation of the *Contraventions Act*, enforcement officers have the option of issuing a ticket in relation to a federal statutory offence that has been designated as a contravention. Based on your experience, has the implementation of this process had an impact on your function as a prosecutor? Please elaborate.
6. How were you informed about the *Contraventions Act*? Did you receive materials or training? How satisfied are you with this process?
7. Have you encountered any challenges or difficulties in the application of the *Contraventions Act*? If so, what were they? How did you address them?
8. In your opinion, should the scope of the *Contraventions Act* be expanded to include other federal statutory offences? If so, in which areas?
9. Based on your experience, can you describe the extent to which the courts are able to offer services in both official languages when a person wishes to challenge the charge for committing a contravention written up in the ticket?

Results

10. One of the main goals of the *Contraventions Act* is to facilitate the enforcement of federal laws and regulations by enforcement authorities. Please describe the extent to which the *Contraventions Act* has reached this goal.
11. Are there aspects of the *Contraventions Act* that could be improved?
12. In your opinion, and based on your experience, does the *Contraventions Act* make the legal system fairer? Does it make the process more efficient? Please elaborate.

Conclusion

13. Do you have any questions or comments on elements that we have not discussed?

Thank you for your participation.

Evaluation of the *Contraventions Act* Program

Interview Guide for Representatives of Provincial Governments

The Department of Justice Canada is conducting an evaluation of the *Contraventions Act* Program, including the *Contraventions Act* itself and the *Contraventions Act* Fund, which supports the implementation of the Act. The evaluation will deal with the implementation and administration of the Act and Fund, as well as issues including their relevance and performance (effectiveness, efficiency and economy). The evaluation covers a three-year period, beginning with fiscal year 2013-14 and ending with fiscal year 2015-16. Justice Canada hired PRA Inc. to support this evaluation process.

As part of the evaluation, we will be conducting interviews with a range of key informants involved in the implementation of the Act. The information we gather will be summarized in aggregate form, which means you will not be identified in any way. Additionally, your participation in this interview is voluntary and you may withdraw from the study at any time. If there are specific questions that you would prefer not to answer or that you feel you do not have the information to address, please let us know and we will continue on to the next question.

Introduction

1. Could you describe your current role and responsibilities and how they relate to the implementation of the *Contraventions Act*?

Implementation of the *Contraventions Act* Program

Contraventions Act

2. Could you describe the process you have used to implement the *Contraventions Act*? What has been your ministry's role? How have you involved other stakeholders, such as court managers and personnel, enforcement authorities, etc.?
3. What challenges, if any, have you faced during the implementation of the *Contraventions Act*? How have you addressed these challenges?
4. How satisfied are you with the current agreement signed between your government and the Department of Justice Canada? Are there any changes that should be implemented to strengthen the agreement? If so, which ones?

5. Please describe your level of satisfaction with the process leading to the signing of your agreement with the federal government to implement the *Contraventions Act*.

Contraventions Act Fund

6. Please describe how your government identifies its official language needs associated with the implementation of the *Contraventions Act*. What activities are you undertaking to identify those needs, and who are the stakeholders consulted?
7. Please describe the implementation of your activities supported by the Fund over the past three years. What are your key accomplishments? What are the main challenges you have faced?

Results

Contraventions Act

8. One of the main goals of the *Contraventions Act* is to facilitate the enforcement of federal laws and regulations by enforcement authorities. Please describe the extent to which the *Contraventions Act* has reached this goal.
9. What aspects of the *Contraventions Act* could be improved?
10. In your opinion, and based on your experience, does the *Contraventions Act* make the legal system fairer? Does it make the process more efficient? Please elaborate.

Contraventions Act Fund

11. Can you describe the extent to which the courts in your province are able to offer services in both official languages in the following circumstances:
 - a. When a person comes to the registry to pay a fine associated with a federal contravention?
 - b. When a person contacts a court in the province by telephone to receive additional information about the contravention ticket that they received?
 - c. When a person appears before the court (usually a justice of the peace) to plead guilty of the contravention entered on the ticket, but with the intention of providing extenuating circumstances in order to reduce the fine imposed?

- d. When a person wishes to challenge the charge for committing a contravention written up in the ticket?
12. In your opinion, what has been achieved to date as a result of the Fund's implementation? What have been the most significant challenges?
13. If applicable, please describe strategies, other than those of the Fund's implementation, that would make it possible to achieve the same results, but in a more effective manner.

Reporting and statistics

14. To date, have you been able to submit all financial and activity reports as described in your *Contraventions Act* agreement? Have you faced any particular challenges in producing these reports?
15. What data do you have on the number and the types of federal contraventions that have been enforced in your province? Have there been any challenges in obtaining this data? Have any strategies been developed to improve your ministry's ability to gather this data?
16. What data do you have on the number of provincial offences enforced in your province (e.g., number of tickets issued, number of cases in which individuals have entered a guilty plea with explanations, number of trials)? Is it possible to access this data?

Conclusion

17. Do you have any other comments?

Thank you for your participation