



Evaluation of the *Contraventions Act* Program

FINAL REPORT

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Evaluation Branch
Internal Audit and Evaluation Sector

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ACRONYMS

AMP	Administrative monetary penalty
GBA+	Gender-based analysis plus
GCIMS	Contribution Information Management System
IFMS	Integrated Finance and Material System

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EXECUTIVE SUMMARY

Introduction

The evaluation of the *Contraventions Act* Program was conducted by the Department of Justice Evaluation Branch and covers fiscal years 2016-17 to 2019-20. It was completed in accordance with the Treasury Board's *Policy on Results* and the *Financial Administration Act*, and considered the broader accountability process related to the *Action Plan for Official Languages 2018-2023*.

The evaluation's main objectives were to assess measures undertaken by Justice, particularly those of the Programs Branch, to support the implementation and management of the contraventions regime, as well as measures undertaken by provincial governments and municipalities where the contraventions regime is operational.

Program Description

The *Contraventions Act* (the Act) allows the federal government to designate federal statutory offences as contraventions, which may be enforced by means of tickets, instead of prosecuting these offences under the summary conviction process¹ established in the *Criminal Code*. By establishing a ticketing procedure, the impact on offenders that results from a conviction based on a federal contravention ticket is lessened, the significant burden of the summary conviction process is eliminated, and the use of court resources is reduced.

To implement the contraventions regime, the federal government relies on existing provincial ticketing schemes. To this end, it has signed agreements with participating provinces to make existing provincial ticketing schemes applicable to federal contraventions.

Enforcement officers can start using a provincial ticketing scheme to enforce federal contraventions when both following legal requirements are met: the incorporation by reference of the provincial legislation has been completed in accordance with the *Application of Provincial Laws Regulations*; and an agreement has been signed with the relevant provincial government, in conformity with the *Contraventions Act*. At the time of the evaluation, the Act was operational in all provinces except Saskatchewan and Alberta, and in two municipalities, Ottawa and Mississauga. It is not yet operational in the three territories.

As for the *Contraventions Act* Program, it consists of a range of coordinated responsibilities undertaken by Justice which are necessary for the implementation of the contraventions regime. These responsibilities include the provision of legal services in matters related to ticketing procedures, designation of federal offences as contraventions, required amendments to applicable regulations, negotiation of agreements, determination of appropriate measures related to language rights, management of the regime in provinces, management of a Federal-Provincial-Territorial working group and a Justice Department Study Group, and management of the transfer payment program referred to as the *Contraventions Act* Fund. This Fund supports the implementation of measures put in place by provincial or municipal governments and designed to ensure the provision of judicial and extra-judicial services to offenders in both official languages as stated in the *Criminal Code* (judicial services) and the *Official Languages Act* (extra-judicial services).

¹ The summary conviction process is described on page 2.

Findings

Relevance

The contraventions regime supports the federal government's goal of ensuring a fair, relevant and accessible justice system. It establishes a clearer distinction between statutory and criminal offences, and it provides a prosecution scheme that adequately reflects the specific nature of statutory offences. Because of the contraventions regime, enforcement authorities are better equipped to carry out their mandate, and those served with a contravention ticket have reasonable and effective means at their disposal to pay the fine or challenge the ticket. Individuals being served a ticket issued through the contraventions regime face no possibility of imprisonment and will not have a criminal record in the event that they are found guilty of having committed the offence. While progress has been made to increase the number of offences designated as contraventions, continued progress in this regard is essential for the contraventions regime to remain relevant.

The contraventions regime also contributes to the important objective of increasing the efficiency of the court system, which continues to face pressures to proceed with cases within a reasonable timeframe. By design, the contraventions regime limits the number of scenarios under which the court system must be engaged, which serves all justice stakeholders and allows enforcement authorities to effectively carry out their mandate.

While the *Contraventions Act* Fund is an essential component of the regime as it ensures that all applicable language rights are upheld, it is not well aligned with the goal and purpose of the *Action Plan for Official Languages*. The current arrangement associates the Fund with the federal government's duty towards enhancement of official language minority communities, whereas the Fund is solely meant to fulfil the government's legal duties towards offenders' language rights.

Effectiveness

The contraventions regime is adding a much-needed component in the toolbox of those enforcement officers charged with enforcing federal statutory offences designated as contraventions. During the period covered by the evaluation, an average of approximately 30,000 tickets were issued annually using the contraventions regime.

By spending more time on the ground monitoring and investigating, and less time preparing lengthy reports and attending court proceedings, and by having the capacity to react in a timely manner by issuing tickets on the spot when required, enforcement officers are operating within an overall framework that is well aligned with the nature of their responsibilities.

Participating provinces and municipalities also benefit from the contraventions regime, as it supports a greater level of enforcement of offences committed within their respective region and that may involve their own enforcement officers. In addition, provincial and municipal courts (as applicable) benefit greatly from having a ticketing system in place that prevents their limited resources from being unnecessarily drained to address offences that can be resolved through such a ticketing system. In order for the contraventions regime to achieve its full potential, it must be operational in all provinces, and the fine levels must be monitored and revised as required to achieve the desired impact on offenders.

Ultimately, Canadians benefit from a regime that adequately reflects the nature of statutory offences. Whether they decide to pay the fine or challenge the ticket, they will engage in a system that is fairer, more relevant and more accessible than what would be experienced in the absence of the regime.

The Programs Branch's Legal Services Division and its Innovation, Analysis and Integration Directorate both provide critical support to participating provinces and municipalities to ensure a successful implementation and management of the regime, including the provision of services in both official languages in accordance with the applicable requirements contained in the *Criminal Code* and the *Official Languages Act*.

Efficiency

The current process used to allocate funding through the *Contraventions Act* Fund ensures that the funded measures adequately reflect the legal requirements related to official languages that are applicable to the implementation of the contraventions regime. The institutional bilingual capacity acquired through measures put in place not only serves the interest of the contraventions regime, but also enhances the capacity of these courts to operate in both official languages in other matters, such as criminal cases.

During the period covered by the evaluation, the *Contraventions Act* Program used approximately half of its allocated resources. New jurisdictions are expected to join the regime and require assistance to ensure that all applicable language rights are upheld. The extent to which all remaining resources would be required to meet the needs of these new participants will only be determined once agreements are in place.

As for the reporting provided by the participating provinces and municipalities, it would benefit from being more consistent and timely, particularly as it relates to data provided on the tickets issued and trials held.

Recommendations

Recommendation 1: The Programs Branch should continue to actively support the expansion of the scope of the contraventions regime by increasing the number of offences designated as contraventions. A particular focus should be placed on offences relevant to the Atlantic Provinces to reflect the fact that the regime is now operational in Newfoundland and Labrador.

Recommendation 2: The Programs Branch should pursue options to secure the participation of the provinces of Saskatchewan and Alberta in the contraventions regime, or establish alternative means by which the regime can be applicable, to the extent possible, in these two provinces.

Recommendation 3: The Programs Branch should engage the relevant federal departments and agencies in a systemic review of fine levels to ensure that the *Contraventions Act* is achieving its intended impact on those who commit offences designated as contraventions.

Recommendation 4: The Programs Branch should review the current reporting process and work with participating provinces and municipalities to help ensure that more complete and consistent data regarding tickets issued and trials held is gathered and reported.

1 INTRODUCTION

1.1 Purpose of the Evaluation

The evaluation of the *Contraventions Act* Program is part of the Department of Justice Canada's (hereafter Justice) Five-Year Departmental Evaluation Plan (2019-20 to 2023-24) and was conducted in accordance with the Treasury Board's *Policy on Results* and the *Financial Administration Act*. It was also designed and planned to align with the broader accountability process related to the *Action Plan for Official Languages 2018-2023* since the *Contraventions Act* Fund is part of the Community pillar of the Action Plan.

1.2 Evaluation Scope

The evaluation covered four fiscal years, namely the period from 2016-17 to 2019-20. It assessed activities undertaken by Justice, particularly those of the Programs Branch, to support the implementation and management of the contraventions regime, as well as measures undertaken by all provincial governments and municipalities where the Regime is operational.

More specifically, the evaluation aimed to document the experience of the participating provinces and municipalities and the broader impact that the contraventions regime has had to date on these jurisdictions. Such information is expected to support the efforts of Justice in pursuing the implementation of the regime in jurisdictions where it is not yet operational.

The evaluation also explored the impact that the contraventions regime has had on enforcement authorities. Ultimately, the *Contraventions Act* provides enforcement authorities with an additional means by which they can carry out their respective mandate. The benefits that Canadians may expect from the Regime is therefore dependent on the extent to which enforcement authorities operationalize the Regime, which includes having the organizational capacity to use it.

While focussing on the impact of the contraventions regime, the evaluation also provides an update on findings, recommendations and actions from the 2017 evaluation related to its relevance and effectiveness.

2 PROGRAM PROFILE

2.1 Program Overview

The *Contraventions Act* allows the federal government to designate federal statutory offences as contraventions, which may be enforced by means of tickets, instead of prosecuting these offences under the summary conviction process established in the *Criminal Code*. The purposes of the Act are:

- (a) to provide a procedure for the prosecution of contraventions that reflects the distinction between criminal offences and regulatory offences and that 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.

Adding a ticketing option to enforce designated federal offences is based on the assumption that the fairly complex and burdensome summary conviction process may be at odds with the nature of these offences. Using the summary conviction process requires several steps involving a number of stakeholders. Among other things, it requires enforcement officers to gather detailed information to be shared with Crown prosecutors to determine whether charges will be laid. When charges proceed, enforcement officers must file the required information at the courthouse, to be reviewed and signed by a provincial judge or a justice of the peace. Enforcement officers also prepare summons to be signed by the judge or the justice of the peace ordering the charged individuals to appear in court. If the charged individuals opt for a trial, enforcement officers must provide the required information and assistance to the Crown, which may necessitate several meetings, in addition to being available to serve as witness in court. Having this as the default process for all federal statutory offences was seen as inefficient, which led to the establishment of the contraventions regime.

The contraventions regime also lessens the impact on offenders that result from a conviction based on a federal contraventions ticket. These individuals may readily pay the fine and settle the matter. They face no criminal record and no possibility of imprisonment.

The Act provides two mechanisms for implementing a ticketing regime for federal contraventions. First, it provides for the eventual creation of an autonomous and comprehensive federal procedural regime to process federal tickets; and second, it makes it possible for the federal government to rely instead on existing provincial ticketing schemes. Rather than duplicate existing provincial structures at the federal level, the federal government has opted to use its powers under the Act to enter into agreements with the provinces and make existing provincial ticketing schemes applicable to federal contraventions. As a result, when a contravention ticket is issued by an enforcement authority, the ensuing process is solely governed by the ticketing scheme of the province in which the offence occurred.

In practical terms, enforcement officers can start using a provincial ticketing scheme to enforce federal contraventions when the following legal requirements are met: the required amendment to the *Application of Provincial Laws Regulations* is made to authorize the use of a provincial ticketing scheme; and an agreement is signed with the relevant provincial government, in conformity with the *Contraventions Act*. In the absence of either one of these two conditions, federal offences designated as contraventions are enforced in a provincial jurisdiction using warnings, or they are prosecuted under the *Criminal Code* summary conviction procedure. At the time of the evaluation, the Act was operational in all provinces except Saskatchewan and Alberta, and in two municipalities, Ottawa and Mississauga. It is not yet operational in the three territories.

As for the *Contraventions Act* Program, it consists of a range of coordinated responsibilities undertaken by Justice, which are necessary for the implementation of the contraventions regime. These responsibilities include the provision of legal services in matters related to ticketing procedures, designation of federal offences as contraventions, required amendments to applicable regulations, negotiation of agreements, determination of appropriate measures related to language rights, management of the regime in provinces, the management of a Federal-Provincial-Territorial working group and a Justice Department Study Group, and management of the transfer payment program referred to as the *Contraventions Act* Fund.

The *Contraventions Act* Fund supports the implementation of measures put in place by provincial and municipal governments and designed to ensure the provision of judicial and extra-judicial

services to offenders in both languages as stated in the *Criminal Code* (judicial services) and the *Official Languages Act* (extra-judicial services). These measures typically include the hiring of bilingual court personnel, language training, bilingual signage and documentation, as well as costs provinces incur to manage and report on these measures.

2.2 Governance Structure

Two groups within the Policy Sector’s Programs Branch contribute to the ongoing management of the *Contraventions Act* Program:

- The Programs Branch’s Legal Services Division leads the negotiation of agreements with provinces to allow their ticketing schemes to be used for the prosecution of federal contraventions. This includes the management of any required amendments to the *Application of Provincial Laws Regulations*. In addition, it provides ongoing support to the Programs Branch, federal client-departments including their respective enforcement authorities, agencies as well as provincial counterparts, in providing legal services and advice on matters related to ticketing procedures and designating new federal offences as contraventions, including the required amendments to the *Contraventions Regulations*. The Division also supports training activities for enforcement officers, which are typically delivered in collaboration with provincial authorities and Public Prosecution Services of Canada. Finally, the Division provides assistance on the creation and implementation of administrative monetary penalty (AMP) regimes (explained further in section 4.2.2), which may, under some circumstances, play a complementary role to the contraventions regime.
- The Programs Branch’s Innovation, Analysis and Integration Directorate is primarily responsible for the ongoing management of the *Contravention Act* agreements funding component signed with participating provinces and municipalities. This includes, in particular, the management of the financial support provided to provincial and municipal governments through the *Contraventions Act* Fund to support the provision of services in both official languages. The Directorate monitors and collects all reports provided in accordance with *Contraventions Act* agreements.

2.3 Resources

Table 1 includes the total financial resources allocated to the *Contraventions Act* Program during the four 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.

Table 1: Financial resources allocated to the *Contraventions Act* Program

Categories	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
Operational costs ¹	\$827,427	\$827,427	\$827,427	\$827,427
Contributions ²	\$9,094,900	\$9,094,900	\$9,094,900	\$9,094,900
Total	\$9,922,327	\$9,922,327	\$9,922,327	\$9,922,327

1. Operational costs include internal costs related to salaries and benefits, operations and maintenance, and other internal activities related to the *Contraventions Act* Program.
2. Contributions are allocated based on agreements signed with provincial/municipal governments for the delivery of bilingual services related to federal offences designated as contraventions.
Source: Administrative data

It is important to note that Justice does not provide a direct financial contribution to provincial or municipal governments to cover expenditures related to the processing of federal contraventions.

Instead, current *Contraventions Act* agreements include clauses that allow provincial and municipal governments to retain the required portion of fines collected to cover these costs. Any surplus in fines collected is shared equally between the federal and provincial/municipal governments.

3 EVALUATION METHODOLOGY

To guide the evaluation, a methodology and evaluation matrix were developed, based on the guidance provided by the *TB Policy on Results* (2016). The scope of the evaluation focussed on relevance, effectiveness and efficiency. The evaluation included eight main questions, as summarized below.

Issue #1: Relevance

- 1.1 How does the *Contraventions Act* Program align with current federal priorities? How does it align with the Action Plan for Official Languages?
- 1.2 How is the current range of federal offences designated as contraventions meeting the needs of enforcement authorities?

Issue #2: Effectiveness

- 2.1 To what extent are enforcement authorities using the contraventions regime to support the achievement of their mandate?
- 2.2 What impact does the *Contraventions Act* Fund have on the ability of provincial/municipal authorities to deliver judicial services in both official languages?
- 2.3 To what extent is the contraventions regime, including the *Contraventions Act* Fund, achieving its expected benefits for Canadians?
- 2.4 What is the strategy of Justice to pursue the implementation of the contraventions regime in jurisdictions where it is not yet operational?

Issue #3: Efficiency

- 3.1 How efficient is the current process for allocating the financial support provided to participating jurisdictions through the *Contraventions Act* Fund?
- 3.2 What measures are in place to manage the Fund efficiently?

An Evaluation Working Group was established at the outset of the evaluation to support this process by providing inputs, advice and suggestions regarding the design and conduct of the evaluation. It included Program officials and representatives from the Evaluation Branch.

Three lines of evidence were used to address these evaluation questions, including a document and data review, key informant interviews, and one case study. Each of these methods is briefly described in the following sub-sections.

3.1 Document and Data Review

The document and data review informed all evaluation issues and questions. It provided updated information on the use of the contraventions regime in all participating provinces and municipalities, and on the range of measures that the *Contraventions Act* Fund has been supporting. This review was ongoing throughout the life of the project and included the following types of documents:

- *Contraventions Act* Program files, including previous evaluations conducted of the Program
- Reports from participating jurisdictions
- Data from the Grants and Contribution Information Management System (GCIMS) on the financial support provided to participating provinces
- Data from the Integrated Finance and Material System (IFMS) on all resources invested (e.g. FTEs) in the Program, to support the analysis of the efficiency of the Program

3.2 Key Informant Interviews

Key informant interviews constitute the primary source of data for this evaluation. Much of the experience of enforcement authorities, court representatives, and provincial and municipal governments with the contraventions regime is not systematically documented. As a result, interviews become pivotal to gather a meaningful understanding of the strengths and limitations of the Program as it currently stands.

A total of 53 in-depth interviews were conducted with 59 individuals representing the following groups:

- Justice Canada representatives, including those involved in managing and implementing the Program, as well as legal counsel from legal services units serving federal departments and agencies that are using the contraventions regime.
- Enforcement authorities (municipal, provincial and federal, as applicable), including both enforcement officers and their managers.
- Representatives from federal departments and agencies that manage programs or legislative initiatives that rely on the contraventions regime.
- Prosecutors, including those working with the Public Prosecution Service of Canada, and provincial prosecutors (as applicable).
- Managers from municipal and provincial courts that receive financial support from the *Contraventions Act* Fund.
- Representatives from provincial governments and municipal authorities that manage the *Contraventions Act* agreements signed with Justice Canada.

3.3 Case Study

Initially, an in-person site visit in Newfoundland and Labrador was scheduled. The primary purpose of this site visit was to adequately assess and document the experience of this province where the contraventions regime became operational during the 2018-19 fiscal year. Examining the experience of the most recent province to have joined the contraventions regime was expected to support the efforts of Justice to expand the regime in all provinces, as recommended in previous evaluations of the Program.

The COVID-19 pandemic did not allow for this in-person visit to occur. As a result, more detailed interviews were conducted via phone and videoconference, in an attempt to mitigate the impact of conducting the site visit remotely. The list of individuals interviewed included provincial representatives, court manager and personnel, enforcement officers, and prosecutors.

3.4 Consideration of Gender-based Analysis Plus (GBA+)

The evaluation of the *Contraventions Act* Program provided an opportunity to explore whether a GBA+ could strengthen our understanding of the extent to which the Program's reach and benefits include diverse groups of women, men and non-binary individuals. Given the nature of the Program, the assessment indicated that a GBA+ would not add significant perspectives and insights, since the Program relates to the implementation of a ticketing system to better support a fair and efficient enforcement of federal offences.

3.5 Constraints, Limitations and Mitigation

The constraints and limitations related to this evaluation include the challenges of reaching stakeholders during the COVID-19 pandemic, limited insights that can be gathered from jurisdictions not participating in the Program, and the limited data on direct interactions with Canadians who are involved in the contraventions process.

These limitations did not significantly affect the capacity of the evaluation team to adequately address each evaluation question. While the pandemic made it somewhat more challenging to reach stakeholders, the targeted number of interviews was met. Some information was also gathered on the two provinces where the regime is not yet operational, particularly through interviews conducted with enforcement authorities operating in all regions of the country.

4 FINDINGS

This section of the report synthesizes the evaluation findings. The analysis is based on information that emerged from all lines of evidence. It begins with an assessment of the relevance of the Program, particularly as it relates to federal priorities on the administration of justice. It also explores the impact of the contraventions regime on enforcement authorities, provincial and municipal authorities, and Canadians more generally. This section ends with an analysis of the efficiency of the Program.

4.1 Relevance

4.1.1 Alignment with Federal Priorities

The contraventions regime is directly aligned with the goal of ensuring a fair, relevant and accessible justice system in Canada, through the implementation of a prosecution scheme that adequately reflects the nature of statutory offences, as opposed to criminal offences. As for the *Contraventions Act* Fund, it is essential for the regime to operate in accordance with the law. However, it is not well aligned to the federal Action Plan for Official Languages in which it is currently included.

During the period covered by the evaluation, Justice pursued a number of initiatives that support the goal of “ensuring a fair, relevant and accessible Canadian justice system”.² In doing so, the Department has been addressing a number of longstanding issues that create inefficiencies and trigger unnecessary delays for those involved in the justice system. Of particular interest for the

² DOJ Departmental Results Report 2018-19, p. 14.

purpose of this report are the decisions from the Supreme Court of Canada in *Jordan*³ (2016) and *Cody*⁴ (2017) that established a new framework for proceeding with cases without undue delays, which has placed new pressures on the court system to modernize its approach and to ensure its resources are used purposely and diligently.

The contraventions regime directly supports these efforts. By more clearly distinguishing between criminal and statutory offences, and by establishing a process whereby the vast majority of federal offences designated as contraventions are prosecuted using a ticketing system, rather than the summary conviction process, the contraventions regime allows both enforcement authorities and those individuals (or corporations) alleged to have committed contraventions to address these matters fairly and efficiently.

As for *Contraventions Act* Fund, it directly reflects the commitment of Justice to ensure that “laws and policies abide by the rule of law and promote respect for rights and a fair, accessible and relevant legal framework in Canada”.⁵ The Fund is a necessary component of the contraventions regime to ensure that all applicable language rights contained in the *Criminal Code* and the *Official Languages Act* are applied to any procedures related to federal contraventions, regardless of the provincial scheme being used.

While the *Contraventions Act* Fund is required for the long-term sustainability of the contraventions regime, it shows no meaningful alignment with the Action Plan for Official Languages 2018-2023. The Fund relates to official languages in that it guarantees that alleged offenders receive their ticket in both official languages, and 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.

Put simply, the Fund is entirely integrated in a regime used to enforce federal offences and is not aligned with the goals of the Action Plan to support the vitality of official language minority communities. Countless other similar service structures, communication tools and policies that allow Canadians to receive services in both official languages are not found within the Action Plan. Examples include passport renewal, income tax, employment insurance, and government website accessibility. Ultimately, the current arrangement associates the Fund with the federal government’s duty towards enhancement of official language minority communities, whereas the Fund is solely meant to fulfil the government’s legal duties towards language rights of those accused of contraventions.

The previous 2017 evaluation of the *Contraventions Act* Program recommended that the Department of Justice enter into discussions with Canadian Heritage to seek the removal of the Contraventions Act Fund from the Action Plan prior to its five-year renewal. Correspondence to this effect was sent to Canadian Heritage, however the matter was not addressed prior to the approval of the 2018-23 Action Plan. While the current evaluation findings indicate that the Fund is not well aligned with the Action Plan, it is unlikely that a similar recommendation will result in a different outcome in the near future as the Action Plan is currently midway through the five-year renewal cycle.

³ *R v Jordan* 2016 1 SCR 631

⁴ *R v Cody*, 2017 1 SCR 659

⁵ DOJ Departmental Results Report 2018-19, p. 14.

4.1.2 Range of Federal Offences Designated as Contraventions

Increasing the number of offences designated as contraventions is essential for the contraventions regime to remain relevant. While progress has been made during the evaluation period, more needs to be done.

Evaluation findings indicate that, in order for the contraventions regime to achieve its full potential, a number of key conditions must be met. The first of these is to ensure that a volume of federal offences designated as contraventions is adequate and sufficient to meet the needs of enforcement authorities.

Progress made since the last evaluation

The previous evaluation of the contraventions regime noted that “the evidence supports a significant expansion of the current scope, and indicates that a failure to do so considerably weakens the relevance of the Program”.⁶ The report included a recommendation inviting Justice to collaborate with client departments to identify additional offences that could be designated as contraventions, and to provide the necessary support to facilitate that process.

Evaluation findings confirm that progress has been made in that regard. During the period covered by this evaluation, the Programs Branch’s Legal Services Division collaborated with a number of client departments to initiate the process of including new offences within the contraventions regime, through amendments made to the *Contraventions Regulations*.

A particularly relevant example of this work is the inclusion in the contraventions regime of a number of offences associated with the *Quarantine Act*, which has been a pivotal tool in managing the COVID-19 pandemic. The Legal Services Division has worked collaboratively with all key stakeholders to ensure that enforcement officers could use a ticketing system to enforce a number of offences under this legislation, such as failing to answer questions asked by screening officers, failing to disclose information concerning communicable diseases, or failing to comply with an order prohibiting the entry into Canada. These are informative examples where proceeding with a summary conviction process would prove highly inefficient. During interviews, enforcement officers emphasized the importance of having such offences covered under the *Contraventions Act* to ensure that immediate action can be taken to change the behaviour of those who fail to comply with these requirements.

Another example is the inclusion in the contraventions regime of some offences under the *Aeronautics Act*, and more precisely the *Canadian Aviation Regulations*, to address the use of laser or other directed bright light sources to interfere with the work of airplane pilots. This covers being in possession of certain hand-held lasers in specified areas or projecting a directed bright light source into a navigable airspace. In both cases, offenders face a fine of \$1,000.

⁶ Department of Justice Canada. (2017). *Evaluation of the Contraventions Act Program: Final Report*, p. 28.

The need to pursue the expansion

Building on the progress made to date, evaluation findings confirm that increasing the number of offences covered by the contraventions regime is a priority for many enforcement authorities. The goal of the evaluation is not to compile a complete list of offences that should be included in the contraventions regime, as this process must inevitably involve negotiations among all concerned parties, including the departments responsible for these pieces of legislation or regulations, enforcement authorities, provincial or municipal officials, and Justice. To support this process, the evaluation has nonetheless provided an opportunity to gather information on what appears particularly relevant to add to the contraventions regime, from the perspective of enforcement authorities. The following paragraphs summarize the findings gathered in that regard.

Offences related to the Fisheries Act

The *Fisheries Act* and its associated regulations create an extensive framework that serves to manage many dimensions of commercial and recreational fishing activities in Canada. Among other things, the regulations tend to address specific regions of the country, based on the unique profile of fishing activities that occur in each of them. At the time of the evaluation, the range of offences included in the contraventions regime was associated with the *Maritime Provinces Fishery Regulations* and the *Ontario Fishery Regulations*.

During interviews, enforcement officers and managers expressed the desire to see a substantial expansion of fishery-related offences included in the contraventions regime.

- They suggested covering additional regions, particularly through the *Atlantic Fishery Regulations*, the *Newfoundland and Labrador Fishery Regulations*, the *Quebec Fishery Regulations*, and the *British Columbia Sport Fishing Regulations*.
- They also suggested the inclusion of some offences under the *Metal and Diamond Mining Effluent Regulations* and the *Pulp and Paper Effluent Regulations*.
- Finally, they noted that some offences contained in the *Fisheries Act* itself would benefit from being included in the contraventions regime, such as those related to the deposit of deleterious substance prohibited (section 36(3) of the *Fisheries Act*).

Enforcement officers and managers noted that having the regime operational in Newfoundland and Labrador has a substantial impact on its potential use to enforce fishery-related offences in the Atlantic region, and expect that the same trend would occur if additional regions were covered by the regime.

Offences related to the Canada National Parks Act

National parks are particularly well suited for the use of a ticketing system to lay charges. As individuals and families tend to stay in a park for a limited period of time, and may have travelled from afar to get there, having to proceed with a summary conviction process raises challenges for all parties involved. As noted in the previous evaluation of the *Contraventions Act* Program:

“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 to enforce federal legislation.”⁷

To this day, a number of offences under the regulations associated with the Canada’s national parks have been designated as contraventions. During interviews, enforcement officers and managers recommended that additional offences be covered, particularly those under the *Gros Morne National Park of Canada Snowshoe Hare Regulations* and the *Gros Morne National Park of Canada Timber Harvesting Regulations*, now that the regime is operational in Newfoundland and Labrador.

Other offences to be considered

Other areas mentioned during interviews include a further expansion of the range of offences included in the *Canadian Environmental Protection Act* and the *Saguenay-St. Lawrence Marine Park Act*, as well as the inclusion of offences under the *Species at Risk Act*.

In all cases, the goal is to ensure that officers have access to enforcement means that reflect the nature of the offences contained in the enabling legislation or regulations. As noted by an enforcement officer interviewed, the current set of offences designated as contraventions under the *Canadian Environmental Protection Act* concerns administrative requirements, such as failing to produce a report. That leaves a wide range of substantive offences that must be addressed through either the summary conviction process or the AMP regime when available. This arrangement is not meeting the needs of enforcement officers who would greatly benefit from being able to issue tickets under the contraventions regime.

A shared responsibility

Expanding the range of offences designated as contraventions is a lengthy process that involves a wide range of stakeholders, including predominantly the department or agency responsible for the legislation or regulations, several groups within Justice as well as central agencies, since any expansion requires regulatory amendments. Once new offences are added to the regime, provinces where the regime is operational must update their administrative systems and processes, and enforcement authorities must train officers so that they may take advantage of these modifications. This can only succeed through a concerted effort from all stakeholders.

In this context, the Programs Branch’s Legal Services Division can provide important support, but it cannot act unilaterally. Evaluation findings indicate the Division has made every effort to accommodate initiatives that aim to expand the range of offences contained in the contraventions regime.

⁷ Department of Justice Canada. (2017). *Evaluation of the Contraventions Act Program: Final Report*, p. 28.

4.2 Effectiveness

4.2.1 Achieving a Full Implementation of the Act

The recent addition of the province of Newfoundland and Labrador in the contraventions regime represents a significant achievement, but challenges remain, such as adding the provinces of Saskatchewan and Alberta. Justice is also exploring avenues to make the regime operational in the territories.

As the scope of offences covered by the contraventions regime is a critical factor in establishing its relevance, having the regime operational in all jurisdictions is equally important.

The case of Newfoundland and Labrador

During the 2018-19 fiscal year, the province of Newfoundland and Labrador completed all the required steps to allow for contravention tickets to be issued and processed within its court system.⁸ This is a significant achievement, which responds to longstanding calls from enforcement authorities to have the regime operational in that province where many sectors, such as the fisheries, are closely integrated within the Atlantic region as a whole.

The evaluation provided an opportunity to document the experience gained thus far by Newfoundland and Labrador in operating the contraventions regime. Overall, findings confirm that this has proven to be a valuable undertaking. Some of the lessons gained to date include the following:

- Having representatives from both the Programs Branch's Legal Services Division and the Innovation, Analysis and Integration Directorate to assist provincial authorities in determining the required modifications to accommodate tickets issued under the contraventions regime has been beneficial. This includes assessing the range of measures needed to ensure that all applicable official language rights contained in the *Criminal Code* and the *Official Languages Act* could be upheld. The flexibility that the *Contraventions Act* Fund provides to design a strategy that reflects the unique characteristics of each province was also seen as particularly helpful.
- Since the fundamental goal of the contraventions regime is to allow for an existing ticketing system to be used, the level of training required has been limited. Only some unique specificities of the contraventions regime, such as the application of language rights, needed to be fully explained to enforcement authorities and court personnel. Interviews conducted with provincial representatives from Newfoundland and Labrador indicate that these measures have been completed efficiently, and no significant challenges were encountered.
- The increased capacity of the court system to operate in both official languages is proving to be beneficial beyond the contraventions regime, to include services provided as part of criminal matters where proceedings are conducted in French. As noted during interviews, while the vast majority of the population in Newfoundland and Labrador is English speaking, there are Francophone communities in various parts of the province, as well as a significant number of French-speaking individuals and families who visit the province. Whether they

⁸ The agreement with the province of Newfoundland and Labrador was signed in April 2017, and included a transition clause making the regime fully implemented in 2018-19.

require services in English or French, the court system is now better equipped to ensure that such services are efficiently provided.

- Having federal offences enforced through a ticketing system is also lessening the burden on the courts. As noted during interviews, having the ability to proceed using a ticketing system is simpler for the person having been served the ticket, it is less taxing on court personnel, and it reduces the burden on the court resources.

In terms of challenges, by far the most significant one that the province has faced is recruiting and retaining bilingual staff members. To this day, the province has not been in a position to fill all bilingual positions. It continues to work with all stakeholders, including Francophone community organizations, to explore avenues to attract bilingual individuals. In the meantime, however, the province has filled the most critical positions and, as such, has been able to meet the demands for bilingual services. However, as the use of the ticketing system is expected to grow with more enforcement authorities becoming familiar with the system, the province is planning to fill all positions.

Another challenge noted during interviews is providing the required support to all court staff members and enforcement officers as they manage the expansion of the ticketing system to include federal offences. Findings indicate that it is the unknown more than anything else that may initially create nervousness, in addition to misconceptions around the requirements for bilingual services. Having open and regular discussions and adequate training has allowed these concerns to be adequately addressed.

The remaining jurisdictions

The only two remaining provinces where the contraventions regime is not yet operational are Saskatchewan and Alberta. Evaluation findings confirm that considerable efforts have been expended by Justice to facilitate the participation of these two provinces in the regime, but at the time of the evaluation, no agreement had been reached.

The reluctance of these two provinces to allow for the use of the ticketing system contained in the contraventions regime is seen as detrimental to all parties.

- The provincial courts in these two jurisdictions, already facing sustained pressures to reduce delays and gain efficiencies, must divert their limited resources to address the prosecution of federal offences through the summary conviction process, while these offences could easily be dealt with through the *Contraventions Act* ticketing system. Since the experience to date has shown that most individuals served with a ticket simply pay the fine, this would result in cost savings and efficiencies for these courts that, for the time being, are not being realized.
- Enforcement authorities operating in these two provinces are lacking a critical tool to achieve their mandate. Interviews with enforcement officers and managers clearly confirm that, in the absence of a ticketing system, either they must limit themselves to issuing warnings, which have no consequence in law, or they must divert their time and resources to engage in a summary conviction process that significantly reduces their ability to pursue their mandate on the ground.
- Citizens who are alleged to have committed an offence designated as contraventions in these two provinces must proceed through the summary conviction process and, if found

guilty, are exposed to a greater fine and end up with a criminal record, while individuals facing the same charge, under the same circumstances, in provinces where the *Contraventions Act* is operational, end up with a ticket, with a reduced fine, and no criminal record.

- Despite its best efforts and intention, the federal government is unable to achieve a consistent application of the contraventions regime across Canada.

The last evaluation of the contraventions regime included a recommendation inviting Justice to “develop a strategy with respect to the implementation of the *Contraventions Act* regime in all provinces.”⁹ The Department agreed with the recommendation and has been exploring various options, including ones that would not require an agreement with these two provincial governments to be signed. Findings from this evaluation confirm the importance of pursuing this work in the hope of finding a solution to this longstanding roadblock towards a full implementation of the *Contraventions Act*.

In addition, Justice is also exploring options to allow for the contraventions regime to be available in the three territories. This is seen as a promising strategy that will undoubtedly serve the interests of enforcement authorities and those residing in these regions.

4.2.2 Administrative Monetary Penalty Regimes

Administrative monetary penalty (AMP) regimes constitute another alternative to the summary conviction process, yet solely administrative, and may add another useful tool by which enforcement officers can effectively carry out their mandate. As both the AMP and contraventions regimes have unique features, they do not duplicate themselves but may rather play a complementary role in enforcing statutory offences.

AMP regimes are a well-established tool that may assist enforcement officers in ensuring compliance with legislative and regulatory requirements by using civil penalties. AMP regimes generally consist of an administrative procedure established and managed by a federal department in order to promote compliance with specific legislative or regulatory measures. Civil sanctions in the form of monetary penalties are used to address any occurring violations to these legislative or regulatory provisions. In 2014, Justice completed a study that compared the contraventions and AMP regimes. At the time of the study, 31 federal laws, along with a set of associated regulations, included some form of AMP regime, and covered a number of areas such as aeronautics, agriculture, transportation, employment insurance, the environment, income tax, nuclear safety, and telecommunications.¹⁰ The study noted that the AMP regimes were 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.”¹¹ It is important to understand that while these two schemes are related in the enforcement of statutory provisions, they pursue distinct objectives. The goal of the contraventions regime is to provide an alternative to the summary conviction process (i.e. involvement of the courts) that would otherwise be used in the absence of the Program. In contrast, AMP schemes are autonomous systems that create an administrative procedure to ensure compliance through civil penalties in oftentimes specialized fields.

⁹ Department of Justice Canada. (2017). *Evaluation of the Contraventions Act Program: Final Report*, p. 56.

¹⁰ Department of Justice Canada. (2014). *The Enforcement of Federal Offences: Study on the Contraventions Regime and Administrative Monetary Penalty Schemes*. Ottawa.

¹¹ Ibid, p. 7.

Evaluation findings indicate that both the contraventions and the AMP regimes offer complementary benefits. As noted during interviews with enforcement officers and managers, AMP regimes have proven particularly efficient to address non-compliance files involving corporate entities, where a fine of \$500 or \$1,000 is simply not sufficient to trigger a change in behaviour.

It is up to each department or agency responsible for an AMP regime to establish the maximum amount of penalty that can be imposed, considering all relevant factors, such as the nature of the non-compliance or the characteristics of the industry (or individuals) to which/whom it applies.

Despite the advantages that AMP regimes may offer, they also raise challenges for those departments and agencies wishing to pursue their implementation. Perhaps the most significant one is the fact that each department or agency wishing to use an AMP regime must establish it in the first place and is responsible for its ongoing management. This is very different from the contraventions regime, which is centralized and managed by Justice, in collaboration with provincial authorities.

The Programs Branch's Legal Services Division has been building expertise on AMP regimes, in order to support any department or agency interested in adding it to the range of tools available for the enforcement of legislative and regulatory requirements. Better understanding the strengths and limitations of both the contraventions and AMP regimes allows departments and agencies to make informed decision on the best strategies to pursue.

4.2.3 Overall Level of Activity

During the period covered by the evaluation, an average of approximately 30,000 tickets were issued annually using the contraventions regime. In addition, provinces and municipalities receiving funding under the *Contraventions Act* Fund have implemented a number of measures that ensures applicable language rights are upheld.

Issuance of tickets

Provinces and municipalities participating in the contraventions regime are expected to submit yearly activity reports with statistics on the volume of tickets issued in their respective jurisdiction. At the time of the evaluation, data was available for three of the fiscal years covered by this evaluation, namely the period from 2016-17 to 2018-19 (see Table 2). Overall, an average of approximately 33,000 tickets were reported as having been issued annually using the contraventions regime.

Table 2: Number of contraventions tickets issued per participating provinces

Categories	2016-17	2017-18	2018-19
Newfoundland and Labrador	not applicable	not applicable	10
Prince-Edward-Island	44	39	23
Nova Scotia	179	760	231
New Brunswick	178	138	121
Quebec	10,960	8,512	7,821
Ontario	7,694	7,033	8,967
Ottawa (airport)	8,311	7,578	8,209
Mississauga (airport)	6,911	6,911	7,999
Manitoba	356	427	441
British Columbia	2,839	1,334	1,206
Total	37,472	32,732	35,028

These numbers are in line with statistics applicable to previous years.¹² For demographic reasons, the vast majority of tickets are issued in Quebec and Ontario. In addition, because of the structure of the agreement in Ontario, statistics relating to the international airports located in Ottawa and Toronto are reported separately from the remaining tickets issued in that province. Finally, some of the fluctuations observed from year to year result from administrative backlogs in processing tickets.

One important driver behind the volume of tickets issued and the trends observed over time is the level of resources that departments and agencies assign to the actual enforcement of legislative and regulatory provisions. During interviews, it was noted that some departments and agencies have reduced the number of enforcement officers patrolling and monitoring for compliance purposes, which will logically lead to a reduction in the number of tickets issued. Ultimately, however, the contraventions regime is meant to better equip enforcement officers as they carry out their mandate. As such, the number of tickets issued is an informative piece of data, but it must be adequately contextualized.

Measures supported through the *Contraventions Act* Fund

The *Contraventions Act* Fund provides financial assistance, as required, to ensure that jurisdictions participating in the contraventions regime uphold applicable language rights contained in the *Criminal Code* and the *Official Languages Act*. At the time of the evaluation, all participating provinces except New Brunswick and Quebec were receiving such financial support, as was the city of Mississauga.¹³

Evaluation findings indicate that the range of measures supported through the Fund has remained consistent over time, and typically include the following components:

- bilingual 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)
- printing of bilingual tickets
- hiring of bilingual judges or justices of the peace, and other court personnel (such as those working in the court registry)
- accommodation expenses for out-of-province bilingual judges when required
- language training for judges and court personnel

Interviews with representatives from provinces and the municipality receiving assistance under the Fund indicate that the range of funded measures is appropriate and is meeting their respective needs. No formal complaint had been received concerning the provision of bilingual services during the period covered by the evaluation, and interviews with all key stakeholder groups indicate that bilingual services are provided as required.

It is worth emphasizing that, by design, the contraventions regime is meant to minimize the number of interactions required to address an alleged violation of federal offences designated as contraventions. For this reason, the typical scenario involves an individual being served a ticket who, in turn, will proceed to paying the fine. Having bilingual tickets and bilingual web sites to proceed with the payment of fines largely covers these key steps. The remaining measures ensure that other applicable language rights are upheld

¹² See Department of Justice Canada. (2017). *Evaluation of the Contraventions Act Program: Final Report*, p. 33.

¹³ New Brunswick, Quebec, and the City of Ottawa do not require assistance under the *Contraventions Act* Fund since they already provide bilingual judicial and extra-judicial services to individuals engaged in their respective provincial ticketing scheme.

whenever an individual served with a ticket elects to challenge it or wishes to receive further information by contacting the court registry. The experience to date indicates that approximately 10 percent of individuals being served with a contravention ticket elect to challenge it, and, of that number, an even smaller amount require bilingual services.¹⁴

4.2.4 Impact on Key Stakeholders

The contraventions regime is providing a much-needed tool for enforcement officers to carry out their mandate. It also provides an appropriate and fair process for engaging those who are charged with an offence designated as contravention. In addition, the regime lessens the burden placed on the court system and, along with the *Contraventions Act* Fund, enhances the ability of provincial courts to operate in both official languages.

This sub-section summarizes the evaluation findings concerning the impact that the *Contraventions Act* Program has had on the three predominant groups that are expected to benefit from it, namely the enforcement authorities, the participating provincial and municipal governments, and Canadians more generally.

Impact on enforcement authorities

The benefits of the contraventions regime

The contraventions regime is adding a much-needed component in the toolbox of those enforcement officers charged with enforcing federal statutory offences designated as contraventions. As repeatedly emphasized during interviews, the summary conviction process contained in the *Criminal Code* is ill suited for the vast majority of cases that enforcement officers must address. It is unnecessarily burdensome for all stakeholders involved (the offender, the enforcement officers, the prosecution services, and the courts), which triggers multiple layers of inefficiencies. In that context, any other means by which federal statutory offences may be enforced represents an important benefit. This is particularly so since the option of proceeding by summary conviction always remains an option when circumstances warrant and where a more severe penalty is sought.

As noted in sub-section 4.2.2, some enforcement authorities focus primarily on the contraventions regime to provide that alternative to the summary conviction process, whereas other agencies pursue a mix between the contraventions regime and an AMP regime.

The main benefits of the contraventions regime identified during interviews with enforcement authorities generally relate to the enhanced capacity it provides for officers to carry out their mandate efficiently. By spending more time on the ground monitoring and investigating, and less time preparing lengthy reports and attending court proceedings, and by having the capacity to react in a timely manner by issuing tickets on the spot when required, enforcement officers are operating within an overall framework that is well aligned with the nature of their responsibilities.

In the absence of alternative means such as the contraventions or AMP regimes, enforcement officers are likely to face some level of resistance from prosecution services or the courts, in attempting to charge individuals through the summary conviction process for offences of a statutory nature. Interviews with both prosecution services and enforcement authorities indicate that the significant burden placed on the courts, combined with the requirement to proceed with charges within a reasonable timeframe, is forcing all justice

¹⁴ See Department of Justice Canada. (2017). *Evaluation of the Contraventions Act Program: Final Report*, p. 29.

stakeholders to make decisions on the most appropriate use of the court's limited time and resources. This places enforcement officers in a challenging position where their cases may, *de facto*, compete with other offences of a criminal nature in attempting to get the attention of the courts.

Challenges faced

The main challenge that enforcement officers identified through interviews is the fact that fines attached to offences are, at times, not sufficient to adequately penalize the offenders. Historically, fines for offences designated as contraventions have not exceeded \$500, reflecting the general nature of these offences, and the reason they were selected to be enforced through a ticketing system. Despite this general trend, there have been instances where greater fines have been included in the contraventions regime. A recent illustration is the designation of a number of offences contained in the *Quarantine Act* where, in some cases, fines of \$750 and \$1000 are included.

Technically speaking, nothing prevents the federal government from increasing fines for federal offences designated as contraventions to whatever levels appear appropriate. As noted in the last evaluation of the *Contraventions Act* Program, the difficulty comes from the fact that there is currently no process to review fines systematically to ensure that they continue to achieve their desired effect. Moreover, modifying these fine levels is an involved process that requires the direct contribution of the department or agency responsible for the enforcement of the legislative or regulatory provisions, along with Justice and central agencies.¹⁵

Along the same lines, enforcement officers and managers have emphasized the benefit that would come from having a scale of fines available that would better reflect the specific circumstances of an offence or the profile of the offender (e.g. repeat offenders). However, as currently designed, the contraventions regime cannot accommodate such a scale. The *Contraventions Act* allows the Governor in Council to assign an amount to a specific fine, not a scale.¹⁶ The Act does allow, however, for different fine amounts to be set, based on whether the offence is alleged to have been committed by an individual or a corporation, as long as the act or regulation creating the offence differentiates between these two categories in prescribing the punishment for the offence.¹⁷

Another challenge noted during interviews is the lack of means by which the payment of fines may be secured. In comparison, provincial governments will typically use the process for renewing a driver's licence to force the settlement of any outstanding fines. Historically, such an enforcement equivalent has not been available for fines imposed under the *Contraventions Act*. However, evaluation findings indicate that Justice has obtained confirmation from provincial authorities that administrative mechanisms such as the driver's licence renewal process are now used to enforce the payment of fines associated with federal contraventions tickets, except in British Columbia and Nova Scotia. Justice has initiated discussions with these two jurisdictions to address that matter.

Impact on participating provincial and municipal governments

By having accepted to implement the contraventions regime, provincial and municipal governments make a vital contribution in establishing a fairer and more efficient justice system, which adequately supports the enforcement of federal statutory offences. The alternative of having the federal government create a separate and distinct system to prosecute federal offences designated as contraventions would inevitably

¹⁵ For more details, see Department of Justice Canada. (2017). *Evaluation of the Contraventions Act Program: Final Report*, p. 27.

¹⁶ Section 8(1)(c) of the *Contraventions Act* (S.C. 1992, c. 47).

¹⁷ Section 8(6) of the *Contraventions Act* (S.C. 1992, c. 47).

lead to duplications and inefficiencies, particularly in light of the relatively small number of federal tickets issued when compared to provincial or municipal tickets. Continuing to use the summary conviction process to systematically prosecute federal contraventions is equally inefficient. In that sense, the level of federal-provincial collaborations achieved to date is, in itself, a great achievement of the contraventions regime. As repeatedly emphasized during interviews, having the regime also operational in Saskatchewan and Alberta would allow for the full benefits of the contraventions regime to be achieved.

In addition to supporting the effective application of the contraventions regime, participating provinces benefit from a greater level of enforcement of offences committed within their respective region that, in many cases, involve their own enforcement officers. Depending on the nature of the offences and the arrangements in place, municipal and provincial officers (e.g. wildlife officers, environmental officers, municipal police officers, etc.) are charged with the enforcement of federal offences designated as contraventions. Any efficiency achieved through the contraventions regime also allows these officers to carry out their entire mandate more efficiently.

Just as importantly, provincial and municipal courts (as applicable) benefit greatly from having a ticketing system in place that prevents their limited resources from being unnecessarily drained to address offences that can be resolved through a ticketing system. To this day, there have typically been over 20,000 tickets issued annually under the contraventions regime.¹⁸ In the absence of that regime and assuming that enforcement is pursued as expected, all these files would require enforcement officers, prosecution attorneys, court personnel, justices of the peace or judges to be assigned to prosecute them. As noted during interviews, such a scenario is entirely at odds with initiatives and efforts currently underway to enhance the efficiency and the responsiveness of the court system.

Impact on Canadians

In addition to providing enforcement officers with a much-needed tool, the contraventions regime was also designed to achieve a greater distinction between offences of a statutory and criminal nature. More specifically, section 4 (b) of the *Contraventions Act* underlines that the purpose of the regime is “to alter or abolish the consequences in law of being convicted of a contravention.” In practical terms, this means that individuals who are served a ticket under the contraventions regime face no possibility of imprisonment, no criminal record, and are subject to the same federal fine¹⁹ regardless of the location where the alleged contravention occurred. These individuals are also entitled to all applicable language rights contained in the *Criminal Code* and the *Official Languages Act*, which cover both their interactions with the court registry and the tribunal if they elect to challenge their charge.

Evaluation findings confirm that these benefits are currently achieved in every province where the regime is operational. This has practical implications for each individual who has been served a ticket under the contraventions regime. Whether they decide to pay the fine or challenge the ticket, they will engage in a system that is fairer, more relevant and more accessible than what would be experienced in the absence of the regime. Unfortunately, citizens who are currently charged in Saskatchewan and Alberta do not experience these benefits.

¹⁸ Department of Justice Canada. (2017). *Evaluation of the Contraventions Act Program: Final Report*, p. 44.

¹⁹ Provinces may charge provincial administration fees in addition to the amount of the fine prescribed by the legislative and regulatory framework of the contraventions regime.

4.3 Efficiency

4.3.1 Funding Allocation Process

Justice has established an efficient process to allocate funding under the *Contraventions Act* Fund. However, the timeliness and consistency of reports submitted by participating provinces could be improved.

The process to allocate funding

As indicated in the description of the *Contraventions Act* Program, Justice has signed agreements with a number of participating provinces and municipalities that include contributions to support the delivery of services in both official languages. At the time of the evaluation, six provinces and one municipality were receiving such funding.

The Innovation, Analysis and Integration Directorate works closely and collaboratively with each province and municipality receiving funding under the *Contraventions Act* Fund to assess their needs and determine means by which they can best meet the language requirements of the contraventions regime. Interviews with funded provinces and municipality point to a high level of satisfaction with the support that representatives from the Directorate provide on an ongoing basis, and more intensively during the negotiation of the first agreement, or the renewal of existing agreements.

An analysis of funded measures also confirms that provinces and municipalities receiving federal contributions tailor their approach to reflect the characteristics of their court system and the linguistic profile of their province. As such, the evaluation indicates that the range of measures funded through the *Contraventions Act* Fund strikes an adequate balance between the language requirements contained in the *Criminal Code* and the *Official Languages Act* and the specific circumstances of the contraventions regime. For instance, the experience to date indicates that individuals being served a contravention ticket will typically not challenge the ticket or reach out to the courts with questions, but will simply pay the ticket. However, there are cases where individuals challenge their ticket or reach out to the court registry with specific questions. To respond to such requests, provinces and municipalities have ensured that services in both official languages are available through efficient means (such as a centralized toll-free number), and that sufficient capacity exists to allow anyone served with a contravention ticket to challenge it in the official language of their choice.

Quality of the reporting provided

All provinces and municipalities where the contraventions regime is operational are expected to submit annual administrative reports that provide, among other things, details on the number of tickets issued and trials held. Provinces and municipalities that receive funding through the *Contraventions Act* Fund must also submit financial statements showing all actual expenditures related to this specific funding.

A review of the reports submitted for the period covered by the evaluation indicates that provinces and municipalities provide all required financial statements. In addition, they provide information and data concerning the number of tickets issued and trials held, but significant gaps remain in some of these reports, and there is some lack of consistency in the information provided. Improved reporting on non-financial information and data would better support both the ongoing management of the *Contraventions Act* Program, and the evaluations of the Program.

4.3.2 Program Efficiency

During the period covered by the evaluation, the *Contraventions Act* Program used approximately half of its allocated resources, as new jurisdictions are expected to join the regime and require assistance to ensure that all applicable language rights are upheld.

Overall costs of the Program

While the yearly-allocated budget for the *Contraventions Act* Program has stood at close to \$10 million, the actual level of resources invested has consistently been lower. As indicated in Table 3, Justice has invested between \$4 million and \$6 million annually in the Program during the period covered by the evaluation.

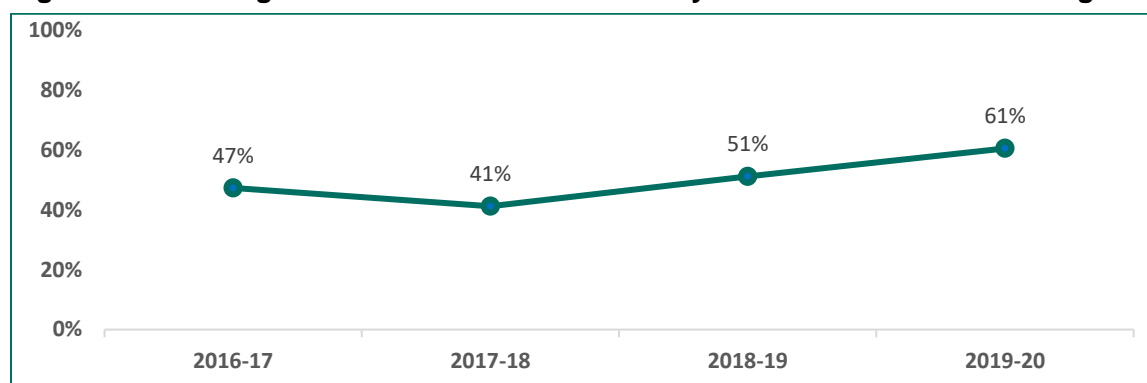
Table 3: Budgeted and actual Program expenditures

Categories	2016-17	2017-18	2018-19	2019-20
Operational costs¹				
Budgeted	\$827,427	\$827,427	\$827,427	\$827,427
Actual	\$806,976	\$419,107	\$909,860	\$1,140,740
Difference	\$20,451	\$408,320	(\$82,433)	(\$313,313)
Contributions²				
Budgeted	\$9,094,900	\$9,094,900	\$9,094,900	\$9,094,900
Actual	\$3,882,648	\$3,666,498	\$4,159,047	\$4,866,243
Difference	\$5,212,252	\$5,428,402	\$4,935,853	\$4,228,657
Total costs				
Budgeted	\$9,922,327	\$9,922,327	\$9,922,327	\$9,922,327
Actual	\$4,689,624	\$4,085,605	\$5,068,907	\$6,006,983
Difference	\$5,232,703	\$5,836,722	\$4,853,420	\$3,915,344
1. Operational costs include internal costs related to salaries and benefits, operations and maintenance, and other internal activities related to the <i>Contraventions Act</i> Program. 2. Contributions are allocated based on agreements signed with provincial governments for the delivery of bilingual services related to federal offences designated as contraventions. Source: Financial data.				

As further illustrated in Figure 1, this means that between 41% and 61% of the allocated funding to the Program has been used during the period covered by the evaluation. This is consistent with periods covered by previous evaluations of the Program.²⁰

²⁰ Department of Justice Canada. (2017). *Evaluation of the Contraventions Act Program: Final Report*, p. 47.

Figure 1: Percentage of allocated resources used by the *Contraventions Act* Program



Source: Financial data

The main factor that has contributed to the gap between allocated and used levels of Program resources is the fact that more jurisdictions have been expected to join the contraventions regime, particularly Saskatchewan and Alberta, in addition to potential other participants such as the territories. It is fair to assume that these potential new participants would require assistance under the *Contraventions Act* Fund to ensure that applicable language rights are upheld as part of the enforcement of federal offences designated as contraventions. The extent to which all remaining resources would be required to meet the needs of these new participants would be further confirmed once agreements are in place.

Resource requirements

During the period covered by the evaluation, the Programs Branch established the Legal Services Division that is tasked, among other things, with supporting the implementation and management of the contraventions regime. As noted in the description of the *Contraventions Act* Program (see subsection 2.2), the range of activities the Division undertakes includes the provision of legal assistance and advice on ticketing related matters, negotiation of agreements with provinces and municipalities, changes to the legislative and regulatory framework associated with the regime, ongoing support to federal departments, agencies and provincial counterparts training, and other demands as required. At the time of the evaluation, the Division included one Senior Counsel and Team Leader, and three legal counsel, who work in close collaboration with the Innovation Analysis and Integration Directorate, which focuses more specifically on the *Contraventions Act* Fund administration.

Findings from the evaluation point to a number of challenges that should be addressed to support the achievement of the contraventions regime's full range of benefits. Among other things, this includes the continued expansion of the scope of the contraventions regime to other provinces and the territories, and a number of reviews and modifications to ensure the continued relevance of the regime (e.g. expansion of federal offences designated as contraventions, review of fine levels, enforcement of outstanding fines, training activities, etc.). The extent to which the Legal Services Division is sufficiently resourced to successfully carry out all these activities remains uncertain.

5 CONCLUSIONS AND RECOMMENDATIONS

5.1 Conclusions

The contraventions regime supports the federal government's goal of ensuring a fair, relevant and accessible justice system. It addresses a longstanding need to more clearly distinguish between statutory and criminal offences, and to establish a prosecution scheme that adequately reflects the specific nature of statutory offences. As a result of the contraventions regime, enforcement authorities are better equipped to carry out their mandate, and those served with a contravention ticket have reasonable and effective means at their disposal to pay the fine or challenge the ticket. In any case, these individuals face no possibility of imprisonment and will not have a criminal record in the event that they are found guilty of having committed the offence.

The contraventions regime also contributes to the important objective of increasing the efficiency of the court system, which continues to face pressures to proceed with cases within a reasonable time frame. By design, the contraventions regime limits the number of scenarios under which the court system must be engaged, which serves all justice stakeholders and allows enforcement authorities to carry out their mandate effectively.

While the *Contraventions Act* Fund is an essential component of the regime as it ensures that all applicable language rights are upheld, it is not well aligned with the goal and purpose of the *Action Plan for Official Languages*. Yet, the Fund remains a component of the Action Plan, and this structure creates an unnecessary distinction between the Fund and the *Contraventions Act* itself, which in turn misrepresents the Fund's main objectives and creates challenges in the accountability process used in relation to the Fund.

In order for the contraventions regime to achieve its full potential, it must first be operational in all provinces. Evaluation findings also indicate that the number of offences designated should continue to be increased, based on the needs expressed by enforcement authorities. In addition, there is a need to ensure that fine levels are adequate to achieve the desired impact on offenders.

The Programs Branch's Legal Services Division and the Innovation, Analysis and Integration Directorate both provide critical support to participating provinces and municipalities to ensure a successful implementation and management of the regime, including the provision of services in both official languages in accordance with the applicable requirements contained in the *Criminal Code* and the *Official Languages Act*. The current process used to allocate funding through the *Contraventions Act* Fund ensures that the range of funded measures adequately reflects the nature of the contraventions regime. For instance, an assessment is done of the specific context in which each participating jurisdiction operates to ensure that the measures funded are designed to ensure the provision of services in accordance with the application of language rights.. In addition, any gain in institutional bilingual capacity not only serves the interest of the contraventions regime, but it also enhances the capacity of these courts to operate in both official languages in other matters, such as criminal cases.

Lastly, the reporting provided by the participating provinces and municipalities would benefit from being more consistent and timely, particularly as it relates to data provided on the tickets issued and trials held.

5.2 Recommendations

Based on the findings described in this report, the evaluation offers the following four recommendations:

Recommendation 1: The Programs Branch should continue to actively support the expansion of the scope of the contraventions regime by increasing the number of offences designated as contraventions. A particular focus should be placed on offences relevant to the Atlantic Provinces to reflect the fact that the regime is now fully operational in Newfoundland and Labrador.

Recommendation 2: The Programs Branch should pursue options to secure the participation of the provinces of Saskatchewan and Alberta in the contraventions regime, or establish alternative means by which the regime can be applicable, to the extent possible, in these two provinces.

Recommendation 3: The Programs Branch should engage the relevant federal departments and agencies in a systemic review of fine levels to ensure that the *Contraventions Act* is achieving its intended impact on those who commit offences designated as contraventions.

Recommendation 4: The Programs Branch should review the current reporting process and work with participating provinces and municipalities to help ensure that more complete and consistent data regarding tickets issued and trials held is gathered and reported.