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Observations of BC Provincial Court in a Modern Society

Simpson, Jessica S.

Simon Fraser University

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Instructor: Dr. Dawn Rault

Author Note

There is no conflict of interest to report

ORCID: 0000-0002-0138-8938

Abstract

BC Provincial Court recently modernized its systems with the introduction of the COVID-19 pandemic in 2019. In this, we saw the modernization of the court system with advancements such as MS Teams integration (Guide for Appearing in the Provincial Court Using Microsoft Teams Contents, n.d.). and safety and security enhancements such as plexiglass barriers (The Provincial Court of British Columbia, 2022b). The court also brought into effect rules in relation to addressing court participants by proper pronouns (The Provincial Court of British Columbia, 2020b). However, there is still much work to be done to ensure a fair, safe, and democratic court system.

Observations of BC Provincial Court in a Modern Society**Compliance with NP 24**

Throughout a multiday observation in November 2022 of court proceedings both at Surrey Provincial Court and Port Coquitlam Provincial Court as a person who identifies with the LGBT2QIA+ community, I placed close attention to compliance with the new court rule NP 24 (The Provincial Court of British Columbia, 2020b) which requires court participants to provide their pronouns and address parties as per their request. I was shocked to see the dismay of abiding by NP 24 by all parties, crown, defense, duty counsel and the accused. NP 24 was put into effect to “improve experiences within the legal system for gender diverse parties and lawyers” (The Provincial Court of British Columbia, 2020a). When I saw this announcement posted onto eNews about this change, I was happy to see the court further advancing equality. However, time and time again I see that the court wants to appease the discriminatory far right and not abide by this policy, especially when this policy was also created to “support a shift in professional practice towards asking all people how they should be respectfully addressed, acknowledging that this should not be assumed based on name, appearance or voice.” (The Provincial Court of British Columbia, 2020a)

Compliance with “Use of Electronic Devices in Courtrooms”

Like NP 24, the court has a policy in relation to the use of electronic devices in courtrooms. This policy applies to all levels of the BC court system. (The Provincial Court of British Columbia, 2012). Throughout my observation, I saw the accused parties in the gallery that weren’t in custody using their phones and even answering phone calls during court proceedings. This was brought with zero action from court staff (BC Sherriff Services nor the judge). This primarily occurred in Port Coquitlam Provincial Court which is much smaller than

Surrey Provincial Court. In Surrey Provincial Court, however, court staff were quick to remind people not to text or make/receive calls. The inconsistencies in rules within courts and even on a day-by-day basis show that not even the court can follow their own rules down to a “t.”

I have personally been a target of individuals photographing myself within the court. To see that the court still, after 3 years has not enforced this policy is quite sad. We constantly see individuals such as Donald Francis Smith break this electronic use policy by taking screenshots of proceedings, video recording proceedings and mocking and harassing court participants, including the judge and crown prosecution (Hainsworth, 2021). The Smith case involved an individual who has harassed me in the past, harassing eComm 911 staff outside of their building. Smith is a person known to criminally harass many people in BC, Alberta, and Ontario. In the instance of violations of the electronic use policies, this wasn't even Smith's first run with violation of this policy and being in contempt. “Court records also show Smith took a screenshot of Court of Queen's Bench of Alberta proceedings in June and posted it online” (Hainsworth, 2021). Smith was found in contempt and fined a sum of \$1,000 CAD. We also see that people who commit these types of behaviors are also not forced into mental health facilities where they should be and instead released back into the community. Smith, for example, “called the court and counsel corrupt, crooked, allegedly that the court and counsel support pedophilia, rape, acknowledging that he would only stop harassing the court and counsel if they took steps against people he identifies as Antifa are being problematic” (Hainsworth, 2021).

Security

Courthouse security changes from courthouse to courthouse (Rault, 2022) and it is extremely easy to bring in contraband depending on the staff there on shift and the location. For

Port Coquitlam, as an example, there are no metal detectors, and you can walk “right in.” I have personally walked through Surrey Provincial Court with bear mace in my bag and nothing was said. Yet, other days when an individual goes in with sterile capped and sealed syringes, staff may cause an issue to it as it can be seen as a “weapon.” However, bear mace isn’t considered a weapon and slides right through. When the BC Sheriff services cares more about an individual bringing in a water bottle than bear mace, there’s a problem in terms of consistency of security that needs to be looked at.

There is also zero courthouse security on MS Teams calls. People can be abusive to court staff, talk out of line and commit contempt of court without any action being taken by BC Sheriff Services. Throughout the observation, I saw total disrespect from individuals in custody, and even those out of custody towards the judge. Their inappropriate actions were brought with zero action from the judge.

Accessibility

As someone who is genetically profoundly deaf, accessibility during court proceedings is an area that I not only observed, but I also had extreme difficulties with. With the introduction of plexiglass barriers during the COVID-19 pandemic in the Provincial Courts of British Columbia (The Provincial Court of British Columbia, 2022b) , hearing proceedings in-person is extraordinarily difficult. Court participants do not make it so that the public gallery can hear what is being said. While court participants are facing the judge, lip-reading is also not possible. With MS Teams screens facing the court participants and not the gallery in many court rooms, there are accessibility barriers with not being able to understand remote participants. I’ve also undertaken several viewings of criminal files over MS Teams such as bail hearings and first appearances. With these remote appearances, they are not captioned as well which creates an

accessibility barrier. There is no ASL interpreter present on these meetings as well. The courts are also not all in line with laws and regulations regarding service animals. As a user who relies on service dogs, it is intimidating being singled out and told by different court staff (dependent on the day) where there are clear-cut laws in relation to the rights of service dog teams which states “Certification under the GDSDA is voluntary. Valid guide and service dog teams exist outside of the GDSDA certification process. Persons with disabilities who rely on a guide or service dog that is certified with other authorities, or is not certified, have an equal right to access and use of public services and places and rental or strata housing, and are protected under the BC Human Rights Code” (*The Rights of Certified Dog and Handler Teams - Province of British Columbia*, n.d.).

Open Court Principles

A problem that I observed was the inconsistencies between criminal registry staff and the judge deciding, based on personal beliefs, who was allowed to attend court proceedings remotely. Court is supposed to be an open court (Rault, 2022), yet, what I observed with the Doug McCallum matter was that the judge had set MS Teams to “accredited media only” when court is supposed to be open (Griffiths, 2019), and indeed was, but for in-person public viewing (*Resources | The “Open Court” Principle in Canada*, n.d.). In addition, the court has no clear-cut policies on document release within the criminal registry. Many of times I have been able to phone up the court (or email them) to request all documents relating to a certain offender, including their arrest documents. This seems to be in relation to individuals that they “don’t like,” for example with Donald Francis Smith, as when requesting other files, such as those of an

individual threatening to shoot pride parades, I was given an answer of “we can’t give those documents to you.”

Conclusion

The court is unable to follow their own policies and procedures that they have set. There is so much inconsistency between court location to court location and shift to shift, sometimes, to get fair treatment is a “hit or miss.” Court staff, such as Justice of the Peace, BC Sherriff Services and Criminal Registry staff have certain biases towards certain people, whether they be offenders or non-offenders. Court staff in certain locations are discriminatory towards those with disabilities, such as those with profound deafness. In a society where communication is key, I found that court staff do not assist, or attempt to assist those who are hearing impaired or profoundly deaf. Those with mobility impairments are required to sit on wooden benches (in the example of Surrey Provincial Court), whereas Port Coquitlam court has more comfortable modern seating. Those that are diabetic, such as myself, are stared down whenever a pump alarm goes off to an uncomfortable point that you feel like you’ll be arrested for contempt, due to such. While there are so many new policies and procedures that are supposed to make the court more “open” and “inclusive”, if the court doesn’t even abide by their own policies, then are we moving society ahead?

1,480 words (not including abstract).

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