

Involving Citizens with Courts and Tribunals: Initiatives in Canada

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It's an honour to be asked to participate in this conference and to be paired with Chief Justice Abrahamson, whose outstanding reputation precedes her. My qualifications to be here are limited to those of observer of events related to our subject—involving individual citizens with courts and tribunals.

I am a part-time consultant, not staff member, with the Canadian Judicial Council, but this relationship does afford me something of a window on courts across the country. As communications advisor to the Council for the past three years, I have been able to support a special committee devoted to public information, help carry out surveys of the communications and outreach activity of superior courts, and meet judges of the Supreme Court and Federal Court of Canada, as well as committees of superior and provincial court judges in four provinces.

I propose in the next few minutes to address our subject in three parts, which I will call “Principles”, “Practice” and “Potential”.

I. PRINCIPLES

As a matter of principle, why should judges be concerned to engage members of their communities in the business of the courts?

The Council tried to answer this question two years ago when it approved a policy framework for public communications and outreach. Let me cite some key points:

- Judges make news—some say more real news than politicians.
- In the world of the *Canadian Charter of Rights and Freedoms*, some of the decisions judges make will inevitably attract public and media commentary and controversy.

- Judges may be vulnerable to serious misunderstanding of what they do. That is a function of the complexity of the law, the adversarial court system, media coverage (good and bad) and other factors. Neither the courts nor other public bodies can rely on automatic respect or deference. Some observers go so far as to say there is a crisis in public understanding and acceptance of the justice system and judges' role in it.
- Yet ultimately it is the public that grants legitimacy to judicial decision-makers.
- There is a growing consensus that judges have a responsibility to help the public understand what the courts do, how judges transact their business and why they function as they do.
- The Council's paper quotes the late Justice John Sopinka as saying, "No longer can we expect the public to respect decisions in a process that is shrouded in mystery and made by people who have withdrawn from society."
- The judiciary's role should not be seen primarily as a means of responding to criticism. It should be much broader.

On the basis of these main points, points of principle if you like, the Council has recommended that courts get actively involved in communications and outreach initiatives. Three kinds are proposed:

- Educational initiatives at all levels of the education system.
- Public initiatives—engaging groups representative of the community.
- Reaching public audiences through the media and providing a forum for constructive discussion with the media about the reporting of justice issues.

II. PRACTICE

So what is happening “on the ground?” What are courts and judges doing off the bench to involve citizens and promote public involvement and understanding?

A survey of superior courts last year revealed that in nine jurisdictions, superior courts have set up communications or media relations committees. Six of those committees include representatives of provincial courts. Some committees that had previously been limited more or less to media relations issues were broadening their mandates embracing education and communications.

Many educational programs are taking shape. Following the creation of an umbrella committee of judges, legal educators, teachers, lawyers and provincial ministries, Ontario superior and provincial courts are collaborating with others to establish Local Liaison Committees across the province to promote courthouse and classroom visits. Judicial “lead hands” are tapping volunteers among crown attorneys, local lawyers and representatives of legal clinics and legal aid to speak about the legal system and the role of judges with high school students. More than 200 judges volunteered to participate, and a structured process was created for teachers to request a class visit to a courthouse, where students would be met by a lawyer or judge, or lawyers and judges would visit classrooms.

In Quebec, the courts, the Bar and the Justice Department are organizing open houses at regional court houses, mock courts for youths, career days in schools and information days for victims of criminal acts. Information is being provided to the general public with the cooperation of local media.

In Manitoba, judges have paid visits to high schools in every corner of the province. This past year all 100 first-year law students at the University of Manitoba participated in the “shadowing project” with 25 volunteer members of the Manitoba Court of Queen’s Bench. In groups of four, students spent two days with a judge following civil, criminal and family trials, motions, pre-trials and case conferences, bail hearings, small claims and summary conviction appeals.

In Saskatchewan, an all-courts committee is developing proposals for educational initiatives, a forum for constructive discussion with the media, and public initiatives. Strategies address media training for judges, issues of access to judicial and legal information including the Internet, cooperation with educational efforts of other groups, and a process for rapid response to inaccurate reporting.

A committee of judges from the Alberta Court of Appeal, Court of Queen's Bench and Provincial Court is providing educational institutions with speakers from the three Courts; arranging public information initiatives aimed at explaining the role of the judiciary and courts, for example in the form of courthouse tours for students and adults; and communicating with the media in their coverage of the courts.

In Canada, the clear leader in public education and outreach programming is British Columbia, whose Law Courts Education Society has been delivering legal education programming to schools and the community for more than 20 years.

The Society is a non-profit organization working with the Ministry of Attorney General, the Ministry of Education, the Judiciary, the Canadian Bar Association, schools and communities. Board members are drawn from these organizations, from First Nations, immigrant and visible minority communities, and from schools and other educational institutions.

The Society receives core funding from the provincial Government and raises funds independently. It provides education programs for tens of thousands of students and others annually, hundreds of educational visits to the courts, curricula and programs for the primary intermediate and secondary grades in Law, Social Studies, First Nations Studies, and career and personal planning.

The Society works with virtually every Law 12 class in B.C. hundreds of Social Studies 11 classes, and over 1000 elementary schools. At courthouses across B.C. and in remote schools, regional offices of the Society deliver court orientations, speakers, mock trials, professional development workshops and community workshops. Another undertaking of regional offices are Courtlink Youth Programs for First Nations Youth, Youth at Risk and Immigrant Youth.

III. SPECIAL PROGRAMS

The list goes on: Special programs for northern First Nations communities, Special programming for the mentally challenged and the deaf

community, a Court Information Program for Immigrants in five languages and Parenting After Separation workshops.

And specifically on our topic today: A Judicial Community Liaison Programs where judges can visit communities and discuss justice issues. Last year, judges participated in almost 600 school visits and public sessions across B.C. and two Judges Outreach programs with the Provincial Court Judges Equality Committee. They held meetings with Community Workers, Chinatown Community groups, Outreach, workers and services for youth and Mentally Challenged individuals. Celebrating the 300th Anniversary of the Act of Settlement, the Society worked with the Supreme Court to develop a curriculum and Judges Outreach program for Social Studies classes. Judges are involved in piloting the program in 15 schools early in 2001.

It is also B.C. where former Chief Justice Alan McEachern pioneered an “ask the judge” e-mail window to accept questions from the public, an initiative his successor has pledged to continue. Chief Justice McEachern was also the force behind the extraordinary *A Compendium of Law and Judges*, posted on the B.C. Appeal Court Website.

Our courts are recognizing the role that the Internet can play to assist litigants, the legal community, the general public and the media. Websites are maintained by the Supreme Court of Canada, Federal Court of Canada, the Court Martial Appeal Court, the Tax Court of Canada, Prince Edward Island, Quebec, Ontario, Manitoba, Saskatchewan, Alberta, British Columbia and Nunavut. Sites are in various planning stages by Newfoundland, New Brunswick and the Yukon.

Courts are carrying out a range of media activities and plan more. The Ontario Court of Appeal set up a Media Committee and made significant changes in its practices for releasing decisions. Officers of the court provided information to media on operations, procedures, scheduling and other matters prior to release of decisions, and responded to questions about specific judgments after their release. Arrangements were made to provide notice of significant judgments and to post them on the Ontario Courts Website on the day of release, accompanied by a summary. The Nova Scotia Media-Courts Liaison Committee devised an electronic notice regime regarding publication bans using the Internet and e-mail.

IV. POTENTIAL

Finally, let me speak about the *potential* for further engagement of individual citizens with judges and their work.

I have given you some examples of the useful activities taking place, but I think it must be admitted that the action is fragmented, uneven and still well short of the potential and the need.

Court Websites are useful for lawyers and researchers, but to date they are awkward and limited sources of information for the general public, and not at all interactive. A start has been made, and sites can be expected to improve steadily. Most sites contain the texts of judgments, but not many judgments include easy-to-read summaries.

Chief Justices and members of their courts report that they are speaking publicly, but the audiences tend to be specialized legal groups rather than organizations representative of the broader community.

There are significant limits on the time individual judges can devote to outreach activities. Many judges are burdened by punishing workloads, particularly in the courts experiencing significant vacancies. If judges are to do more in their communities, it will require greater consensus within courts on the priority of public outreach and a collective will to reserve more judicial time for this purpose. Chief Justices must make clear they want outreach to happen, and they must identify champions within their courts to advance the agenda.

A closely-related point: to sustain outreach activities they must be well planned and organized. This requires experienced and dedicated staff support, and few courts have been able to devote resources to such support.

The Council has long recognized the key role that our news media play in portraying the work of the courts, and the contribution that can be made by court officers devoted to assisting the media and supporting communications activities. Three years ago, former Chief Justice Lamer wrote to the Attorneys General urging them to support the appointment of communications officers for their courts.

Communications roles of varying scope and importance are assigned to individual officers in a number of courts, but the role is significant only in the Supreme Court of Canada, Federal Court of Canada, and in the courts of Nova Scotia, Manitoba, Alberta and B.C. The Judicial Council takes the lead

in convening meetings of these officers when possible, but their travel budgets are limited.

Another in the level of outreach activity might be termed “judicial aptitude.” Not every judge has the interest, confidence or flair for public and media engagement. The skills required are not necessarily the same ones required for judicial duties. Working with the Judicial Council, the National Judicial Institute last month convened a one-day pilot session to train judges in media interviews, public speaking and public presentations, which may translate into a continuing program open to judges across Canada.

And finally, an important factor in the promotion of judicial outreach is surely the value of partnerships, as illustrated particularly by the work being done in B.C. and Ontario. A good current example of partnership is a workshop program on the relationship between the media and the justice system which will be piloted in Prince Edward Island next month. Two of the speakers you will hear from tomorrow—Dean Jobb of the Halifax Herald and Stephen Bindman of the Department of Justice—are key players in developing the program, which involves the CIAJ, the Judicial Council, the Canadian Association of Journalists, the Canadian Bar Association and others. Another example is the video and information kit on judicial independence prepared by the CBA and the Canadian Judges Forum and available in quantity for individuals speaking publicly on the judicial system, the law and the courts.

There is not yet much evidence of collaboration between the courts and the legal education networks across Canada—surely a fertile ground for cooperation.

To sum up: the challenge of judicial outreach and public involvement is being recognized. Significant barriers exist. Some good work is being done. There is potential for a lot more.