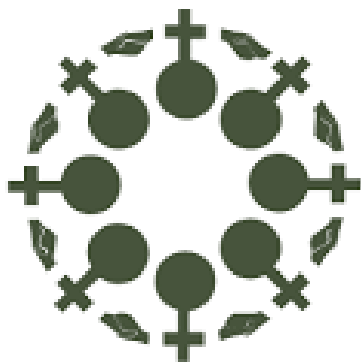




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BC Society of
Transition Houses

Court Watch Report 2

2019

Report Produced in Collaboration By:¹

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Pro Bono Students Canada (PBSC)

PBSC is an award-winning law student program that provides legal services free of charge to organizations and individuals in need across Canada. The program offers invaluable hands-on experience to student volunteers and high quality, professional legal assistance to organizations.

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The BC Society of Transition Houses is a member-based, provincial umbrella organization that, through leadership, support and collaboration, enhances the continuum of services and strategies to respond to, prevent and end violence against women, children, and youth.

This document does not contain legal advice. Pro Bono Students Canada is a student organization. This document was prepared with the assistance of PBSC UBC law student volunteers. PBSC students are not lawyers and they are not authorized to provide legal advice. This document contains a general discussion of certain legal and related issues only. If you require legal advice, please consult with a lawyer

¹ We would also like to thank Raji Mangat for her invaluable feedback and participation in this project.

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History of the Court Watch Project

In 2018 the British Columbia Society of Transitional Houses (BCSTH), and the Peter A. Allard School of Law at the University of British Columbia chapter of Pro Bono Students Canada (PBSC) collaborated on a court watch project.² This project endeavored to assess the barriers and difficulties that exist for women and children in litigating cases regarding matters of family law. The project, conducted by Kailey Graham (PBSC) and Amy Fitzgerald (BCSTH) gathered insight, statistics, and information on the BC justice system's handling of these cases.³ The 2018 report conducted a largely quantitative assessment by viewing remand family court trials in Vancouver on Monday mornings for a period of 3 months. This project gathered valuable demographic information regarding: racial imbalances within the court system (including litigants, judges, and lawyers), the high percentage of self-represented litigants, and time constraints put on the court.

Introduction to this year's Court Watch Project

The 2018 report viewed a high number of short remand trials and gathered a large amount of valuable demographic data. This year the opportunity opened up to view longer summary proceedings, leading to a more qualitative approach. This year's report focuses on a critical analysis of specific experiences and observations made within BC courts. The project begins by looking to some of the main issues identified in the 2018 report and providing a more comprehensive look at the barriers to accessibility created by the organization of the court, trial times, and the high number of self-represented female litigants.

The 2019 court watch project combines the collection of quantitative data and an in-depth discussion of qualitative observations made while observing trials. This report explores the process of navigating a British Columbia courthouse online and in person, with a specific focus on understanding the experience from the perspective of a self-represented litigant who is unfamiliar with the court system.

The 2019 report will also expand into viewing youth criminal trials with female defendants in addition to family trials. This is to gain an appreciation for a wider spectrum of the female experience in British Columbia courts. This expansion in the type of trials being viewed will also make it possible to conduct a comparative analysis between criminal and family trials, specifically with a focus on the difference between court functionality with attorney-represented cases and cases involving self-represented litigants.

This project is founded on many of the same principles as the 2018 report and seeks to hold our justice system, judges, and lawyers accountable for their essential role in creating equal access to justice for all- especially women and marginalized populations. Observing and reporting on court actions is one way to evaluate current legal practices and suggest changes to the court which may be helpful in the removal of the aforementioned barriers to accessing justice. The access to justice crisis in British Columbia and Canada as a whole is a pervasive topic in the legal community. Identifying ways in which the courts can assist self-represented litigants is a useful exercise to increase efficiency and organization within the court in a time when it is unrealistic to expect that every case before a judge will include a lawyer.

² Kailey Graham & Amy Fitzgerald, *Family Law Court Watch Report* (2018)

³ Kailey Graham & Amy Fitzgerald, *Family Law Court Watch Report* (2018) p. 3

Methods:

Data used in this report was collected by viewing summary trial sessions on family and youth criminal cases in the Robson Square branch of the British Columbia Provincial Court from October 25th, 2018 to February 7th, 2019. Thursday afternoon proceedings were viewed, with the majority of trials starting at 2 pm (or 2:45 in some cases) and concluding by 4 pm. Typically there were 1 or 2 trials per court visit. Sometimes there were small claims matters dealt with during this time while the family and youth cases waited in the courtroom to be heard. In total 10 full cases were viewed- this number is lower than the number of weeks in which viewing was conducted for reasons which will be discussed subsequently in this report. The time allotted to each case tended to vary greatly, some trials would go for 1-2 hours with both parties presenting information and testimony; while other matters were dismissed and given a new trial date for the failure of one party to attend court or missing/incomplete documentation or information.

The 2019 court watch was conducted by one viewer using a pre-formulated form⁴ that collected information about the case, parties to the action, judges, and legal counsel. This form also included a series of open-ended questions addressing the biggest issues identified in last year's project- court organization, time, and self-represented litigants. This questionnaire was made through adaptation of past court watch projects in other jurisdictions as well as last year's report. It is worth noting as a disclaimer that the gender, race, and age of the parties were all assessed based on a visual analysis- sometimes backed by facts of the case or statements of a party- and are therefore subject to a high margin of error. Examples of factual statements which informed these assumptions include mentions of judgement being in deference to S.718.2(e) of the criminal code⁵. Age was informed by the age of children if they were present or mentioned in the trial. In addition, demographic factors could not be assessed and were not documented for a number of parties who did not show up to their scheduled court time, even though the trial continued to the best of its ability in their absence.

Observation for counsel was binary based on whether the party had counsel with them or were self-represented. The 2018 report considered duty council as that is customary in remand trials, but none of the summary trials observed had a duty counsel present. Whether or not a party had counsel was determined through both viewing and the information listed outside the trial rooms, which stated the name of the council if the party had representation.

Data was also collected on the use of front-line workers or interpreters. The most common type of front line workers were social workers in custody and youth criminal cases. This was documented simply through whether a frontline worker or interpreted was used ("Yes") or not ("No").

⁴ Form attached as Appendix A

⁵ Section 718.2(e) of the Criminal Code of Canada reads as follows: *A court that imposes a sentence shall also take into consideration the following principles: (e) all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.*

Another factor considered was the degree to which parties spoke in court and whether or not they were given the opportunity to speak at all. This included children, but it is extremely rare for a child to appear before the court even in a custody case so this was a rather thinly utilized sub-category.

A note mentioned in the 2018 report expressed a desire to take more comprehensive notes on the actions of judges and counsel in proceedings as it was perceived that this had an effect on the outcome of proceedings. This year the sections on judges and lawyers' attitudes towards the party's remained the same, but the open-ended questions addressed in part the judge and counsel's conduct and more thorough notes were taken outside of the questionnaire regarding their conduct. There will also be a qualitative analysis section on both lawyers' and judges' effect on proceedings in the subsequent findings of this report.

Finally, in addition to these factors this year the court watch project also turned its lens toward the actual functioning of the court, including: organization and preparation of judges, counsel, and party's; specifically surrounding the very prevalent issues of: late trial starts, ill-informed room reorganization, scheduling mistakes, and missing or incorrect documentation. Further to this point, there was also a test done to try and procure information on trial times and topics- all of which are open to the public for viewing- from the BC Provincial court website and by calling the BC Provincial court, which very often leads to misinformation or information that changed.

At the outset of this project, it was our desire to conduct a content analysis of judgments, but the process of procuring court transcripts proved to be far too cumbersome to make this realistic in the limited time of this project. Attached as Appendix B is the information request form for British Columbia court's, which does not come with any guarantee or time-frame in which to expect a response.⁶ This raises some interesting questions surrounding the balancing of values within our legal system between respecting privacy and having true freedom of information in which these types of studies can flourish and be their most useful. Unfortunately, this topic would be an entire project on its own, one which I hope another researcher may take on in the future.

Challenges to research and accessibility:

One of the main areas that this project sought to highlight was the difficulty present in navigating the court system. The challenges experienced while conducting this court watch in data collection, court communication, and disorganization highlight in many ways the struggles that self-represented litigants are facing.

A. Outdated or incorrect information posted on the British Columbia Provincial Court webpage.

The first source of information for finding trials to view was the court webpage⁷. It listed family and youth criminal trials as occurring on Thursday's at 2 pm in courtroom 102. The website also advertises daily court lists, but these are not offered for family law

⁶ There are some judgments dealing with matters that do not pose privacy concerns which are published on the court website

⁷ <http://www.provincialcourt.bc.ca/court-location/vancouver-civil>

and are often incomplete in the areas where they are offered (criminal and small claims), likely for reasons of anonymity and uncertainty with exact start times and trial locations. The website was somewhat difficult to navigate and often held different information than what was provided over the phone or upon arriving at the courthouse- particularly regarding trial times and locations.⁸

B. The inability of the court to provide information over the phone

Due to the lack of publication on family law matters, the second step in the process of finding trials to view was to call the court. Each week on Thursday morning I called the court office and asked "are there any family law or youth criminal cases with a female defendant being heard in summary proceedings this afternoon?" every week that I called I was answered in the affirmative. The Court was unable to provide information regarding what courtroom the trials would be happening in or provide names for the parties due to anonymity rules.

I was advised to come to the court and look at the electronic screens in the lobby which displayed a list of the cases and corresponding courtrooms for the day. The cases were listed with the following information: full name of the defendant/plaintiff, the name of counsel if applicable, courtroom number, time of trial, and an acronym that described the type of proceeding. There were 2 occasions when I arrived to view these screens and found no cases which fit the required criteria despite having called. Upon further inquiry, I was informed that the cases were rescheduled. While it is understandable that sensitive information cannot be given out over the phone, the information is still published on these screens in a very public forum.

While not the fault of this specific court, this policy seems to create a lose-lose situation wherein private information is still publicly available and trial information cannot be communicated to either interested relations of the parties or researchers conducting projects such as this one.

C. Failure to communicate updated information

Even when trials were listed on the courthouse screens it was often with incorrect or outdated information. On 4 occasions the courtroom listed on the screen for a specific trial was incorrect and I did not realize this until the proceedings had begun. This resulted in the unfortunate situation of having to choose whether to disrupt two trials with an early exit and late entrance or to watch a trial which did not fit the criteria of this study.

Due to the sensitive nature of these trials, I chose the latter and unfortunately, I believe that the data produced in this report suffered because of it. This happened on enough occasions that I ended up making the phenomenon its own category for data collection. In addition to trials which could not be included in this report because they

⁸ after viewing was concluded on this project it appears that the court website underwent a reorganization. This included changing their summary trial listing to not specify a type of trial, an area of law, a day of the week, or courtroom, listing the information instead as "various". It is likely that due to the changing nature of these trials and the challenges observed with litigants failing to appear it is difficult to accurately schedule these trials so far in advance. See Appendix C and D for comparative views of the old and new court schedule.

did not fit the criteria, 27% of the trials that I managed to view did not occur in their scheduled courtrooms. During two of these occasions, I personally witnessed people leave the courtroom looking confused. While it is only speculation, I imagine they were friends or supporters of someone in the trial that was intended to occur in that room.

While the previous challenges discussed would mostly affect a researcher or strangers access to trial viewing, this one directly affects the supporters of the litigants. Those supporting the parties would know when the trial was happening, what the issue being tried is, and the names of the relevant parties- but they would almost certainly be relying on information provided by the court to find the proper room since the litigant would be either otherwise occupied or even incarcerated. The majority of trials viewed had self-represented litigants and the process of appearing before a judge for a sensitive matter is one which some can only manage with the help of support from friends and family. In addition to this, the front line workers were no more informed about trial rooms and delay's than the public was. Ensuring that the information screens are up to date with time, room numbers, and the correct party names are something that the court could very easily fix which would both support research and bring comfort to litigants and their relations.⁹

Findings of the Court Watch Project: Demographic Data

This section will be far shorter than anticipated at the outset of this research. Due to the separating of the project between family and youth criminal trials, viewing longer trials, and the challenges discussed above, I do not believe that enough data was collected in any one category to make statistically significant comments on each of the categories observed. There were, however, a few figures that are glaring in the data and support what was observed in the 2018 court watch project. To begin, there were no children present in any of the family trials. Several family's were discussing child-related matters, but no children actually appeared so demographic data of the children could not be collected in this study. This was also an issue in the previous report with only 3 trials having children present out of a much larger data pool.

The most significant demographic finding is something which was also recognized in the 2018 report- the disproportionate number of indigenous litigants. Indigenous people make up 2.5¹⁰% of the population of Vancouver, but 25% of the litigants viewed. That number jumped to 33% when you consider only the criminal trials. This particular report was not focused on mass demographic data and as such these numbers are inflated, but the fact that even in such a small pool of trials there is an obviously disproportionate number of indigenous litigants supports the

⁹ Due to the challenges presented from the above, there were fewer cases viewed than originally anticipated and this project moves forward with the recognition that the numbers are not enough to be substantially statistically significant on their own but believes that value remains in the qualitative observations made.

¹⁰ Statistics Canada, *Focus on Geography Series, 2016 Census* (Ottawa: Statistics Canada, 2013) <<http://www12.statcan.gc.ca/census-recensement/2016/as-sa/fogs-spg/Facts-CMA-Eng.cfm?TOPIC=7&LANG=Eng&GK=CMA&GC=933>> accessed 15 March 2019 [*Statistics Canada*].

already known data surrounding indigenous representation in courts as outlined in last year's report.¹¹

There were not enough lawyer's present to produce any significant data on gender or race, which in of itself is worth noting and will be discussed in subsequent sections of this report. The gender and race of judges, however, is significant to a degree. 75% of judges were white men. There was only 1 female judge in all of the trials viewed. Last year's report identified the exact inverse, with 75% of the judges being female.¹² This may suggest that female judges are over-represented in lower-level preliminary hearings and under-represented in longer-form, more substantial trials. The data collected is not broad enough to make this claim with certainty, but it is enough to suggest a future project which observes the gender balance of judges across different levels of the court and types of trials to test the hypothesis. The gender-balance of judges is highly important in procuring equal access to justice, and placing more female judges at a lower levels or in places where they make less of an impact on decisions can create a false sense of equality in which the specific number of judges and their gender may suggest an on-paper equality which is not operationally effective.

Judges and Front Line Workers' Impact:

A major difference from the 2018 report that I observed in watching longer form trials was that the judges tended to be extremely understanding and helpful with self-represented litigants. Judges also did very well explaining themselves and the necessary law to the youth in custody during criminal trials. There was a level of frustration when proceedings were held up by late litigants or incomplete/incorrect forms, but that is understandable. This change in judges demeanor is likely due to the removal of the time-pressure of remand-style trials. With more time it is reasonable to hypothesize that it is easier for judges to consider the matters before them and individualize their questions and decisions.

Judges tended to give a high level of deference to the front line workers and actively sought their input regarding sentencing and rehabilitation. Listening to front line workers explanations and stories identified a few shocking facets of our criminal justice system. First is the story of *K*¹³, a 15-year-old girl living on her own in Vancouver. She frequented the Downtown East Side and this was a cause of concern for her social worker who had been assigned to her after a previous criminal charge. *K* did not commit a crime but found herself in custody because of a breach of her probation order, which required she check in with her social worker on a regular basis. The social worker described the defendant as someone who was "trying her best" with recovery and she was not concerned about her failure to appear at the exact dates she was given because "unlike many of the young people I work with, I know that she will come when she can". The center that *K* had to check in with her social worker at was in Burnaby and *K* described difficulty getting there from downtown when she did not have

¹¹ Last year's court watch project identified 7% of litigants as Indigenous, this is likely a more statistically significant representation of the above-mentioned disproportionality

¹² Kailey Graham & Amy Fitzgerald, *Family Law Court Watch Report* (2018), P. 8

¹³ *R v K* (25 October 2018), Vancouver.

transportation or a transit card. The reason why *K*'s social worker had her taken into custody for breach of probation was not for punitive reasons, but because she had not heard from *K* and did not see her when she was working in the Downtown East Side. She called to have *K* arrested because she thought that was the most efficient way to ensure someone would look for and find her. *K* was released with no changes to her parole orders.

This trial shows a problem which is beyond the organization of the court, but that fits within a somewhat recurring theme of social workers expressing frustration with the criminal justice system and its ability to manage the needs of youth defendants. Frontline workers are doing the best they can to support troubled youth, but when the best way to ensure one of your clients is safe is to have them arrested- something is wrong with the system.

Similarly, the story of ¹⁴ illuminates systemic problems in how courts manage youth criminal offenders. *N* was being released and her counsel was negotiating the terms of her probation order. The judge asked her social worker what she recommended as is was a very minor drug possession charge and the youth seemed to be low risk. The social worker requested a monitored addiction services program be mandated. The judge responded that he did not think it necessary to make this mandatory as the youth seemed to have taken responsibility and wanted to enter the program willingly anyway. The social worker informed him that the program was not financially covered unless it was court mandated. The social worker expressed her frustration at this rule, commenting that making it expensive and more difficult for willing youth with addiction issues to access the services they need creates a system which encourages the youth to be caught and charged in order to access these services.

Judges and frontline workers alike also engaged in discussions regarding difficult or impossible to follow probation restrictions that are commonplace and requested by the crown. Particularly among these was location-prohibitions for a specific multi-block radius in the Downtown East Side and alcohol prohibitions. One judge, in particular, discussed with the crown the impossibility of an accused to comply with the prohibition on alcohol as she had been returned to custody on 2 previous occasions for violating the alcohol prohibition. He brought up her obvious addiction issues and mentioned that is seemed to be a "cycle" of her being unable to abide by the alcohol prohibition. The crown counsel responded that this is customary in a probation order and the crime had been alcohol-related so it was not unreasonable. The judge ended up granting the alcohol prohibition because the crown was correct in asserting that this is routine and not unreasonable. This highlights the clear difficulty and conflict that judges can feel during sentencing. I did not view a case in which a location prohibition was an issue, but it is well known that in Vancouver many people with substance abuse issues have created a community of sorts in the downtown east side, so banning them from this community could be problematic.

¹⁴ *R v N* (10 January 2019), Vancouver.

Issues relating to time and organization of the court: A call to action

The most significant finding to come out of this project, in my opinion, is the recognition of the inefficiencies of British Columbia courts. This is not a new problem, but with the access to justice crisis in this province¹⁵ it has never been more important to hold our courts to the highest standards regarding schedules, organization, and preparedness. Over the past months, I have viewed countless trials being postponed or going incomplete because of missing documentation, late start times, failure of litigants to appear, and self-represented litigants being ill-informed on necessary information.

Splitting viewing between youth crime and family trials illuminated very clearly the difference between trials run by lawyers and those run by self-represented litigants.

Family law litigants are not in any less grave situations than those accused under the criminal law and yet they were 80% less likely to have a lawyer. In family trials, only 20% of litigants were represented by a lawyer, whereas the youth criminal trials had a 100% rate of representation. In my viewing, I do not believe that whether or not one had a lawyer impacted family trials in a way that was unjust, but it certainly impacted the speed that the trials were completed in. To illustrate this point I give the example of 2 cases that involved physical, emotional, and sexual abuse claims. Both litigants required protection orders. In both of these cases, an order was granted, but for one litigant it was granted on their first time in court and another, not until their second. The first litigant had a lawyer who informed them clearly of any and all documentation or evidence required and filled out their court forms. The second litigant did not. They arrived with incomplete information and had failed to file one of the required forms. Because of the nature of the order being sought this litigant was given extensive help by the court and managed to be scheduled into another trial-the one I viewed- before the end of the day.

In every trial that I witnessed, it is my sincere belief that the judges, clerks, and all court personnel did everything in their power to assist self-represented litigants and sought to protect those seeking protection orders, child support, and fighting for custody. This is extremely challenging for them, however when the litigants have incorrect information, show up without required documents, and have never appeared before a court before. When matters were less serious than a protection order then more often than not self-represented litigants returned home with a new trial date, because it was impossible to complete the trial in its scheduled time. As one judge said to a litigant after explaining to them what they needed to do and strongly suggesting they seek legal counsel "I can't help you- no matter how much I may want to- unless you help yourself first".

40% of family trials were unable to be completed because of missing or incomplete forms or documentation, another 40% were incomplete because one of the litigants failed to

¹⁵, There are a number of studies and articles on this topic. For examples see:

- The Law Society of British Columbia, *Annual General Meeting*, October 9th, 2018, <https://www.lawsociety.bc.ca/about-us/news-and-publications/news/2018/2018-annual-general-meeting-second-notice/>
- Thomas Cromwell, *Access to Justice: How it's looking on the ground*, The Lawyer's Daily, August 13th, 2018. <https://www.thelawyersdaily.ca/articles/7107/access-to-justice-how-it-s-looking-on-the-ground-thomas-cromwell>

appear. Only 20% of trials were completed on the day of the scheduled trial. Compare this to criminal trials where 100% ended in a release with conditions (66% of matters being fully resolved and the rest being given a court date to address further charges which were not slated to be completed that day anyway). It is easy to think, as I did, that it is, of course, more likely that criminal trials will be successfully completed when the crown and defense have discussed the matter, there is a clear motion, and everyone is present and aware of the facts- but why is this not also the case in family law matters?

It is not only the parties that suffer from these inefficient trials, but the system as a whole. 60% of family law trial's suffered a substantial delay, defined for the purpose of the study as a delay which lasted longer than 10 minutes for reasons of missing documents or waiting for a party that failed to appear. 0% of criminal trials had a delay of this kind. These delay's hold up courts and mean that trials do not start on time (which 80% of trials did not) or finish on time, creating a cycle of inefficiency that affects far more than the litigants represented in a single trial.

This inefficiency and lack of preparation also disadvantages the litigants even further. Going through a custody battle, divorce, or child support argument is an expensive and stressful process- especially for those who cannot afford legal representation. It is ironic that those who are unable to afford counsel are also those who will be forced to spend multiple days in court, resulting in the party missing work and having to arrange alternative childcare.

What can be done?

There is no need to drudge up statistics about self-represented litigants in British Columbia. There are several reports that have been written and projects being conducted that address the access to justice crisis. I cannot speak to such massive systemic problems based on my few months of court viewings.

I can say, based on these viewings, however that from where I was sitting the greatest obstacle to everyday self-represented litigants in family law is their lack of understanding of the proper way to complete and file required forms necessary for a motion and that they do not appear to be aware of the necessary evidence or documentation required to complete a trial. I watched trials be dismissed and rescheduled for something as simple as a litigant being unaware they needed to bring an income statement with them to a child support hearing.

Filling out and filing forms and informing litigants of what is necessary to complete the trial they are a part of is not something that necessarily requires a lawyer. These are tasks which are perfectly within the capabilities of clerks, legal assistants, and even law students. In the same spirit that created the Law Students Legal Advice Program, which allows law students to represent low-income litigants in civil matters, I believe there is also a place for a volunteer-driven advice space dedicated specifically to the clerical aspects of a trial at the courthouse.

In addition to this, there are a number of first and second year law student summer jobs which are funded from government grants or donations, creating a job for someone to create this office and manage volunteers could be an easy and affordable way to take a meaningful step to increase court efficiency, improve access to justice, and help self-represented litigants.

Conclusion

What started out as the continuation of a 2018 court watch report quickly morphed into a project of its own. The initial goal of collecting quantitative and qualitative data on the court, litigants, judges, and lawyers from watching longer form trials allowed this project to grow beyond numbers. This gave me the opportunity to explore more abstract parts of the court and truly experience what the access to justice crisis in this province looks like. During my first year of law school, my colleagues and I heard the words "access to justice crisis" often. Going into this project I expected to see many self-represented litigants, but I did not expect the profound impact that the high number of self-represented litigants had not only on their own cases but the ability of the court to function efficiently.

It is logical that a self-represented litigant may not be able to represent themselves as well in front of a judge as a lawyer could, but the implications of this go far beyond any individual litigant or trial. The number of trials that were unable to be finished, ran long, started late, or had long intermissions while paperwork was obtained had a significant impact on the ability of the court to function.

The Canadian legal system has been laboring under this crisis for some time, and endless reports are published on the issue each year. The purpose of reports like this, in my opinion, is threefold.

First, it is imperative that we as a society never become complacent or accept these inefficiencies in our justice system. Consistently producing new data and keeping eyes on the court is one way to ensure that never happens. Secondly, there is value in assigning fresh eyes to evaluate the court system. When I began this project I had no experience in the legal field and was just beginning my legal education. While more experienced legal professionals have the ability to produce a more polished and official report, having researchers who are new in the legal field allows for a perspective that is closer to that of the litigants in the system. I had to struggle to find my way around the court and experienced a great deal of confusion throughout the process, which made me more able to understand the frustrations of litigants trying to navigate this highly complicated- and at times elitist institution. Finally, and most importantly, because of the partnership with the BC society of transitional housing, this report in both years had a specific focus on the ways in which this larger crisis disproportionately affects women and other marginalized populations. It is critical when addressing any issue- especially in the justice system- that special attention is paid to minority and vulnerable groups who experience the negative effects of social problems to a higher degree than more privileged groups.

Appendix A

Project survey: Form for family court proceedings:

Motion/Issue: _____

Outcome: _____

MOTHER

Gender: _____ Race: _____ Visible Minority Aboriginal Age: _____

Presents with: Physical disability Mental Health Issue Addiction Pregnant

Did they have counsel? Yes / No / NA

Did a front line worker assist them? Yes / No / NA

Did they speak in court? Yes / No / NA

Were they given the opportunity to speak? Yes / No / NA

Comments on what they said/conduct: _____

FATHER

Gender: _____ Race: _____ Visible Minority Aboriginal Age: _____

Presents with: Physical disability Mental Health Issue Addiction

Did they have counsel? Yes / No / NA

Did a front line worker assist them? Yes / No / NA

Did they speak in court? Yes / No / NA

Were they given the opportunity to speak? Yes / No / NA

Comments on what they said/conduct: _____

If Child(ren) Present in Court:

Gender: _____ Race: _____ Visible Minority Aboriginal Age: _____

Presents with: Physical disability Mental Health Issue

Did they have counsel? Yes / No / NA

Did a front-line worker assist them? Yes / No / NA

Did they speak in court? Yes / No / NA

Were they given the opportunity to speak? Yes / No / NA

JUDGE

Gender: _____ Race: _____ Visible Minority Aboriginal Age: _____

How was the Judge's attitude towards the Mother? _____

How was the Judge's attitude towards the Father? _____

How was the Judge's attitude towards the child(ren) (if present)? _____

Comments on what they said/conduct: _____

COUNSEL

	For Mother	For Father
Demographics (Gender, Race, Age, Disability)		
Attitude towards Mother		
Attitude towards Father		
Attitude towards child(ren) (if present)		
Comments on what they said/conduct		

VIOLENCE & ORDERS

Forms of violence present: Physical Emotional Financial Sexual Harassment Child Witness

Comments on violence: _____

Is either party facing criminal charges or been previously convicted? Note if either for domestic violence: _____

Was compliance with court orders discussed? Yes / No / NA

Explain: _____

Was an application for a conduct order made? Yes / No / NA
 Was an application for a protection order made? Yes / No / NA
 If yes, was it granted? Yes / No / NA
 If yes, what was the time period for it to come into effect? _____
 Was it ex parte? Yes / No / NA
 Were they advised that ex parte is a free process? Yes / No / NA

ADDITIONAL COMMENTS (courtroom environment & experience/other relevant/unique facts)

For Youth Criminal:

Charge(s):
 Defence is seeking:
 Crown is seeking:
 Outcome:

Defendant:

Gender:_____ Race:_____ Visible Minority Aboriginal Age:_____

Presents with: Physical disability Mental Health Issue Addiction Pregnant

English as 2nd Language? If yes, was there use of translators or assistive technology? Was this provided by the court, personally paid for, a family member/friend, or no assistance provided?

Did they have counsel? Yes / No / NA
 Did a front line worker assist them? Yes / No / NA
 Did they speak in court? Yes / No / NA
 Were they given an opportunity to address their charge(s)? Yes / No / NA
 Comments on what they said/conduct:_____

JUDGE

Gender:_____ Race:_____ Visible Minority Aboriginal Age:_____

How was the Judge's attitude towards the Defendant?

Comments on what they said/conduct: _____

COUNSEL

	For Defense	For Crown
Demographics (Gender, Race, Age, Disability)		
Attitude towards the defendant		
Attitude towards Opposing Council		
Comments on what they said/conduct		

Qualitative questions:

Time of Trial Start: _____

Did the trial begin at its scheduled time? Yes / No

Was the concluded within its scheduled time? Yes / No

Were there any substantial delays? Yes / No

If yes, reason for delay? _____

Was the judge late? _____

Was the Crown Counsel late? Yes / No

Was the Defence Counsel late? Yes / No

Was a postponement requested due to missing information or documentation? Yes / No

Was there a discrepancy between information that the judge and either members of council had? Elaborate? Yes / No

Did the trial take place in its scheduled courtroom? Yes / No

Were the primary parties of the action duly informed of changes? Yes / No / N/A

Were personal relations of the parties duly informed of changes? Yes / No/ N/A

Was the viewing court duly informed of changes? Yes / No/ N/A

Appendix B

Application for Access to Court Record Information

Please complete this application form and send:

- [*recommended*] as an email attachment to the Chair of the Judicial Access Policy Working Committee c/o Dan.Chiddell@gov.bc.ca; or
- by mail to

Dan Chiddell
Director
Strategic Information and Business Applications
Court Services Branch
Ministry of Attorney General
1st Floor, 850 Burdett Avenue
P.O. Box 9249 Stn Prov Govt
Victoria, B.C.
V8W 9J2

(I) THE APPLICANT

1. Name of Organization:

Address:

Contact Name:

Contact Position:

Telephone:

Fax:

Email:

2. If more than one organization is involved in the application, list the organizations and the governance model of the project or group.
3. Describe the applicant (e.g. corporation, research team, branch of the government) and describe the purpose of the applicant's work as it relates to the application.

(II) THE PURPOSE

- 4. Describe the purpose for which the information will be collected, used and/or distributed. (Note the legislative authority, if any, for the collection, use, and distribution of the information. Note whether the information is being collected for commercial use by the applicant.)**
- 5. *The purposes of providing access to court record information are to better facilitate the conduct of judicial proceedings and to improve access to court record information where the public interest is served.* Describe how the applicant's use and proposed distribution, if any, of court record information, supports the primary purposes of providing access to court record information.**

(III) THE INFORMATION

- 6. Identify the court record information that you wish to collect, use and/or distribute. Be as specific as possible - identify the court level, the data elements, the documents, and the timeframes. If requesting access to court record information from more than one level of court, list the information from each court in separate columns.**
- 7. Describe why this information is necessary for your purpose and whether there is any other source for the information?**
- 8. Describe how the information will be used including how the information will be categorized and organized.**
- 9. If relevant, describe the steps of the research methodology.**

(IV) FORM OF ACCESS

10. Describe the type of access requested (e.g. access to paper records, access to reports, access to electronic records)

(V) USER ACCESS

11. In the following table, identify who will have access to the information and their position. (These individuals are referred to as “users” below.)

Name	Position	Contact Information

12. Describe why these users require access.

13. Have any users been screened for security purposes? If so, identify the security clearance level of each user who has been screened and briefly describe the method of screening.

14. Are all of the users under the direct supervision of the applicant organization/agency (e.g. are any users located at a different facility or under the supervision of a different organization/agency)?

15. Which user will have the primary responsibility for the care and control of the court record information and what is her/his relationship to each of the other users (e.g., research supervisor responsible for direct supervision of each user).

(VI) COPYING, MAINTAINING AND DISTRIBUTING INFORMATION

16. Will copies be made of the information and, if so, why?

- 17. Describe how the information, including copies, will be stored and maintained by the applicant?
- 18. Describe how the information will be distributed and to whom? (Note: the legislative authority of the applicant, if any, for the distribution of the information including any restrictions on the distribution of information.)
- 19. Describe the retention and disposal policies and practices of the applicant organization/agency.

(VII) SECURITY AND PRIVACY OF INFORMATION

- 20. What are the security arrangements for the protection of the information? For example, is the information stored on stand-alone computers controlled by the application organization/agency, will information be stored “in the cloud” or accessed remotely, will information be password protected, what security measures including authentication measures are used by the application organization/agency?
- 21. Having regard to legislative security and privacy requirements, what policies and procedures of the applicant are designed to meet the requirements of legislation? For example, policy and procedures for correcting inaccurate information; policy and procedures for meeting the requirements of protection of personal information legislation.
- 22. Please identify any policies of your organization/agency that relate to the ethical use of information or the use of personal information.

(V) SUMMARY (Do not fill in – for office purposes)

(1) Was access approved (y) (n)

(2) If yes:

(a) the persons and positions:

Name	Position	Contact Information

(b) the information and system:

Appendix C

Division	Court Type	Courtroom	Days	Times
Youth Criminal	Remand	JCM 101	Mon, Tues, Wed, Fri Thurs	9:30 am, 2:00 pm 9:30 am
	JCM Court	101	Thurs	9:30 am
Family	Remand	101	Mon Wed	9:30 am FLA 2:00 pm FMEP/BCB 9:30 am CFCSA
Small Claims	Chamber Applications	102	Mon	9:30 am, 2:00 pm
Youth Criminal, Family & Small Claims Trials	Assignment Court	103	Tues – Fri	9:00 am, 1:45 pm
	Summary Proceedings Court	102	Thurs	2:00 pm

Appendix D

Division	Court Type	Courtroom	Days	Times
Youth Criminal	Remand	102	Thurs	9:30 am
	JCM Court	101	Thurs	9:30 am, 2.00 pm
Family	Remand	101	Mon Every second Monday afternoon Wed	9:30 am, 2.00 pm (FLA) 2:00 pm FMEP/Employment and Assistance 9:30 am, 2.00 pm CFCSA
Small Claims	Applications	102	Mon	9:30 am, 2:00 pm
Trials (all matters)	Assignment Court	103	Tues – Fri	9:00 am
	Summary Proceedings Court	Various	Various	9.30 am , 2:00 pm