



CREATING SAFETY IN BC COURTS

KEY CHALLENGES AND RECOMMENDATIONS



Rise 
WOMEN'S LEGAL CENTRE

WITH GENEROUS SUPPORT FROM THE LAW FOUNDATION OF BC



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Creating Safety in BC Courts:
Key Challenges and Recommendations

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The views expressed by project participants are their own. Any errors or omissions, however, are the responsibility of Rise Women's Legal Centre.

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Executive Summary

Courthouses are not always safe places, particularly for survivors of intimate partner violence. Courthouses in smaller communities in BC are frequently small buildings with no paging systems, where the survivor's only option is to sit in a small area close to their abuser, often for hours, while waiting for their matter to be called. These courthouses also often lack private spaces for people to speak with their lawyer, if they are being represented.

Given the lack of safety in courthouse design and some court processes, attending court has the potential to increase the risk of violence and harm to survivors of violence. The danger of the lack of space in courthouses is especially concerning because women experience a higher incidence of intimate partner violence in rural communities compared to urban areas.

In research undertaken between April 2021 and March 2022, we asked: Is there a way to modify courthouses and court processes to make survivors less susceptible to violence by their abuser? To answer our research question, we conducted a literature review, interviewed 25 key informants, and surveyed 25 lawyers attending courthouses in smaller communities in BC. Our findings were evaluated by lawyers, court users, and advocates (31 in total).

This report details 25 recommendations for positive changes in courthouses in BC, including the following 12 highlights.

- **PAGING SYSTEMS:** We recommend creating paging systems where clerks provide people with either on-premises paging (similar to the handheld devices that restaurants use) or cellphone texts, allowing them to wait outside the courtroom and in any part of the courthouse.
- **SAFE INTERVIEW ROOMS AND SEPARATE WAITING ROOMS:** People need interview rooms to meet with their lawyers and to have private conversations with advocates. Opposing parties should have separate waiting rooms, so they do not have to be in the same small space.
- **PARKING LOT TRAILER:** To create additional space without expensive modifications to courthouses themselves, we recommend installing a well-designed trailer outside the courthouse that could be soundproofed, only accessible to lawyers and their clients, and visually monitored in some way to ensure everyone inside is safe.



PHOTO MELODY CHARLIE

- **TWO ENTRANCE/EXITS:** Courthouses should have two entrance/exits that are clearly marked in the building and visible to someone on courthouse staff, so they are not unsafe.
- **COURTHOUSE NAVIGATORS OR “COURT CONCIERGES”:** Many people arriving at a courthouse enter a space that feels unsafe, and they are unsure about what they should do next. We recommend courthouses be staffed with courthouse navigators who could assist court users in finding their way and by answering basic questions.
- **COURT SUPPORT WORKERS:** In addition to Rise’s persistent recommendation that legal aid expand its family law services, particularly for survivors of violence, we recommend the extension of funding to people in support positions, with expertise in family violence. The support worker would provide family law court support and assist with safety planning. Ideally this person would support the client in addition to the survivor’s lawyer.
- **EXPANDED ROLE FOR MCKENZIE FRIENDS, ADVOCATES, AND SUPPORT WORKERS:** Given that many people are unrepresented in family court, we recommend courts make it explicit that advocates and support workers can apply for protection orders on behalf of clients, as per section 183(1) of the Family Law Act.

Given the lack of safety in courthouse design and some court processes, attending court has the potential to increase the risk of violence and harm to survivors of violence.



“That room [the Victim Services room in the Smithers courthouse] is a game changer.”

- **STREAMLINING PROCESSES AND COURT DESIGN:** The government should audit courthouses across the province for safety and accessibility concerns and implement recommendations. A courthouse advisory group, consisting of key informants, including court staff, advocates, court users, judges, and sheriffs, may be best situated to address scheduling and delay issues specific to each courthouse.
- **ONLINE REGISTRY ACCESSIBLE TO EVERYONE:** A comprehensive online registry would allow people to access their file for free and without travelling to the courthouse.
- **ATTENTION TO BASIC NEEDS (FOOD, WATER, WASHROOMS):** Court users should have access to drinking water in courthouses, plus a vending machine or some source of snacks. Washrooms should be modified to include gender neutral and trans-inclusive washrooms.
- **ROOM FOR CULTURAL PRACTICES AND/OR PRAYER:** We recommend that courthouses create a room that people can use, to complete a prayer, smudge, and/or other practice that may be important for them, before or after their court hearing.
- **HYBRID MODEL:** Our research uncovered both positive and negative experiences with the current virtual appearances in BC courts. We recommend a hybrid model, allowing both in-person and virtual court appearances. Courts should also designate a separate room inside the courthouse with the technology to allow for virtual appearances in cases of family violence.

Notes on Terminology

COURTHOUSES: The spaces that are used hear court proceedings in BC vary a great deal. Cities and some mid-size communities usually have a dedicated building, but small communities are often served by circuit courts that only sit several times a year. In these cases there may not be a permanent courthouse; court may be held in spaces that are used for other purposes most of the year and only used for court on a temporary basis. In this report we use the term “courthouse” broadly to refer to any space where court is being held.

FAMILY COURT: BC does not have specialized family courts, and because of this we use the term “family court” in a general sense to describe courts hearing family law matters. Family matters in BC may be heard in either the Provincial Court or the Supreme Court, and different procedural requirements apply to each court. We heard about a range of experiences of what it was like to use both levels of court; however, given that we are focusing on the experience of attending courthouses rather than on specific legal procedures, this report does not distinguish between Supreme Court and Provincial Court.

KEY INFORMANTS: This report includes the evidence from interviews with 25 key informants, who included lawyers, advocates, anti-violence workers, First Nations Court Liaisons, courthouse library staff, and survivors of violence who have accessed family court.

POST-TRAUMATIC STRESS DISORDER (PTSD): This event-related disorder is occasioned by exposure to a significant traumatic event, or exposure over a period of time to traumatic events and followed by the development of characteristic symptoms in the aftermath of the event(s). Examples of such traumatic events include disasters, criminal violence, living in a war zone, motor vehicle accidents, and domestic violence.¹

RURAL OR SMALLER COMMUNITIES: In this project, we spoke to people who were outside of major urban areas in BC. We recognize that in these areas there are varied arrangements for people accessing court, from small but permanent courthouses to temporary circuit courts held in community centres, to communities where there is no court at all, and parties must travel to be heard. We have tried to capture some of the range of barriers faced by court users who are not in one of BC’s urban centres.

SURVIVOR: We predominantly use the term “survivor” to refer to people against whom family violence has been perpetrated. However, we acknowledge that not everyone who has experienced violence identifies as a survivor; some people may refer to themselves as victims or may not label their experiences. We also use “survivors” to refer to people with lived experiences (of violence).



Introduction

Courthouses and legal systems are often thought of as places and entities where survivors of violence can seek safety. When we speak to survivors, however, they frequently tell a different story, one that locates courts and legal services as barriers to safety. This is especially true in BC’s smaller communities, where survivors may have to travel long distances to courthouses and wait in small and uncomfortable waiting areas with their abusers.

While the COVID-19 pandemic has created some positive changes for court users and legal system professionals across BC, many challenges persist and require attention as the public health orders are lifted and courthouses return to a new normal.

The goal of this research was to envision how BC courthouses could create safer spaces and processes for survivors. We have focused particularly on the experiences of survivors in small communities. Policies and practices that serve survivors in rural and remote communities will also help survivors in more urban areas as well as court users more broadly. As legal scholar Dean Spade says, “[s]ocial justice trickles up.”²

Relying on interviews with key informants and secondary sources, this report describes some of the main challenges that court users face in small BC communities and proposes recommendations for change.

Many of the recommendations we propose are low-barrier and require minimal resources. Low-barrier recommendations include implementing “safe walks” from the courthouse to the parking lot, designing two separate waiting areas for opposing parties so they can remain physically separate from each other, implementing restaurant-style pager systems, and ensuring courthouses have water that people can drink. We also propose more complex recommendations, such as increasing funding for organizations that support people in court, expanding legal aid for survivors of violence in family law matters, conducting an accessibility audit of courthouses across BC, and creating user-centred processes that take into account the knowledge and experiences of court users and legal system professionals.

We recognize that many people in BC are also having conversations, both informal and formal, and working to make processes safer, more efficient, and less expensive. We hope that the recommendations in this report will contribute to a much larger conversation around the province about how all court users can have more positive and less stressful experiences in court.

Methods

We relied on three methods to conduct our research: a literature review, interviews with key informants, and a survey sent to lawyers.

To begin, we conducted a literature review, which included reviewing papers on designing safe spaces, trauma-informed court processes that consider the needs of families,³ the barriers to accessing the court system, and the safety impacts of attending courthouses.⁴

We conducted 25 key informant interviews throughout the province. When we designed our research, we had intended to study several “focus” communities. However, as the research progressed, we expanded our parameters to hear from key informants in other areas of the province to capture a wider range of experiences. As a result, we have a small sample of people with experience working in and attending court in a wide range of BC communities.

All interviews were conducted one-on-one and through the online platform Zoom, and people were given the option to keep their cameras on or off. The interviews were recorded and later transcribed, except for one interview where detailed notes were taken because the key informant preferred to not be recorded.

All research participants were provided with a consent form outlining the project. Participation was voluntary and participants were told that they could withdraw at any time. We adhered to strict confidentiality principles throughout the research, and no identifying details or names have been included within this report without explicit permission from the key informants.

To gain more information about lawyers’ perspectives, we shared a survey with lawyers attending courthouses in smaller communities in BC. We received 25 responses from lawyers across the province.

To evaluate our findings, we sent our report to all the key informants involved in the project, along with additional lawyers and community workers, and asked them for feedback. In response, we received 20 evaluations. We also hosted a focus group in early February 2022, organized by the BC Society of Transition Houses (BCSTH), where 10 workers gave feedback on our findings and recommendations and contributed further insights. Their feedback has been added to the final version of this report.

To gain more information about lawyers’ perspectives, we shared a survey with lawyers attending courthouses in smaller communities in BC. We received 25 responses from lawyers across the province.

All participants were offered honorariums for interviews and evaluation activities.

Research participants

	Key informants interviewed	Survey respondents	Report evaluators in focus group	Individual report evaluators
Lawyers	6	25	-	5
Court users	5	-	-	4
Advocates, support workers, First Nations Court Liaisons, et al.	14	-	10	12
Total	25	25	31	

Limitations

Our research does not provide a thorough analysis of all courthouses in BC, and we are therefore undoubtedly missing elements, both positive and negative, of how individuals experience particular courthouses. As this research took place during the COVID-19 pandemic, travel was not possible, and we have relied on the key informants’ descriptions of courthouses throughout.

Out of 25 key informants, only six were court users, and therefore the experiences we have captured do not encompass the full range of lived experiences of people in the province. We recommend future research that seeks to learn from a much larger sample of court users with consideration given to ethnicity, racialization, age, education, language, geography, culture, gender identity, and ability, to better understand the challenges users face and the changes needed.

Lastly, we acknowledge that this report does not include the perspectives of judges, court staff, and sheriffs. Our requests to both the provincial and supreme courts in BC to invite judges to complete anonymous surveys were declined, as were our requests to the Court Services Branch to include the perspectives of sheriffs and court staff, with or without attribution. We hope, in the future, to collaborate with judges, sheriffs and courthouse staff to obtain their involvement in a manner that addresses their participation concerns. Their valuable perspectives on this important public safety issue could enhance the recommendations we have made.

Why Changes Are Necessary



Violence in Small Communities

Women living in smaller and more remote communities experience more incidents of violence than those in major urban centres.⁵ Intimate partner violence (IPV) is 1.7 times higher in rural areas compared to urban areas.⁶ Rates of police reported IPV experienced by rural women in Canada are “5 times higher than for rural men, 75% higher than rates for urban women, and 7 times higher than for urban men.”⁷

In 2018, police-reported violent crime rates were 56% higher for rural women, compared to the national rate of police-reported violent crime overall.⁸ The Centre for Research & Education on Violence Against Women & Children reports that the violence experienced by young women and girls in Canada’s North is more likely to be severe.⁹

In addition to pervasive and severe violence, women in smaller communities also face numerous challenges that can make it more difficult to escape and report abuse. These include a lack of privacy, the risk that disclosure may ostracize the victim from the community, and fear that they will not be believed when their word is against someone who is well-known to their friends, family, and police. Barriers faced by women in smaller communities, highlighted in recent research by the BC Society of Transition Houses, include lack of housing, lack of employment, lack of transportation, limited services for women with mental health issues and who use substances, and lack of cellphone coverage.¹⁰ The lack of recognition of the psychological and physical risks survivors face when they finally do attend court can cause survivors to lose faith in the legal system and may make them less likely to seek legal help in the future.¹¹

Rates of police reported IPV experienced by rural women in Canada are 75% higher than rates for urban women.

PTSD, Health Impacts, and the Court System

I don't know how much people understand PTSD, but [when] people have PTSD it is torture.¹²

Eventually I was diagnosed with PTSD, and it is just an overwhelming feeling. It happens in a split second when you feel that fear [in] your body, your mind senses fear and I don't know what happens and it sets off a cascade of physical feelings. It feels debilitating like you can't think, you can't concentrate, you have to fight so hard to stay focused and not go into that real strong powerful flight response.¹³

Academic research indicates that participating in family legal systems, particularly for survivors of violence, may have significant health impacts, physically and emotionally, including triggering or in some cases contributing to the development of post-traumatic stress disorder (PTSD). These impacts can be heightened in small communities, in part because of the smaller courthouses, which place survivors in close proximity with their abusers.

Intimate partner violence threatens the physical safety and emotional state of the survivor who is subjected to it.¹⁴ PTSD is a common result of having experienced IPV, especially for women who were required to access transition homes.¹⁵ Studies have shown that 30% of women over age 15 have experienced IPV, and 31% to 84% of survivors suffer from PTSD.¹⁶ PTSD can involve a wide range of symptoms that include involuntary and recurring distressing memories of the traumatic event, dissociative reactions, and states of hyperarousal.¹⁷ It can also lead to increased prevalence of other mental disorders, particularly anxiety and depression, as well as physical ailments.¹⁸ Furthermore, the heightened state of physiological arousal can lead a survivor to be in a constant state of alert.¹⁹

One key informant who had PTSD and had to go to court against her abusive ex described having flashbacks from seeing his face and explained that it would have been better for her health if she had not had to see him. She also experienced panic attacks that could start at any time, accompanied by dangerously high blood pressure. In the past, she had had to call an ambulance and go to the emergency room because of her panic attacks. Another survivor of violence we interviewed explained the impact that spending over a decade participating in a family law dispute has had on her health.

The last 15 years of stress from my family law matters ... they've drained me financially and my health is suffering and it's from cumulative stress. My family doctor will say there is no proof of it [being from the stress], but that is where he figures all my physical symptoms have been coming from.²⁰

Some people have a formal PTSD diagnosis that they attribute to their participation in family court. Participants of this study perceived their experiences attending court as often impeding access to safe outcomes. Since people experiencing PTSD regularly attend court in BC, we have tried to be mindful of their experiences when crafting our recommendations.

People often experience significant financial strain when attending family court, which can further elevate stress.²¹ Past research has termed the stress of litigation “litigation response syndrome,” which is “made up of complaints that arise solely from the experience of being personally involved in a lawsuit, rather than the events that precipitated the litigation.”²² Other researchers have termed the stress that accompanies court processes “forensic stress,” and “forensic stress disorder” is the general burden of stress accompanying litigation.²³ It can be difficult to separate stress resulting from attendance at the courthouse from stress inherent in participating in legal processes; however, this research on the high level of stress litigants experience, calls for reflection on how stress can be reduced throughout the life of a family file.²⁴

Stress from court may cause or exacerbate the following symptoms:

- Anxiety
- Anger
- Pessimism
- Frustration
- Fear
- Insomnia
- Humiliation
- Despondency
- Powerlessness
- Appetite disturbances
- Reduced self-esteem
- Sense of worthlessness
- Disruptions of attention and concentration
- Indecisiveness
- Disruptions of sexual functioning
- Feelings of hopelessness.²⁵



“It happens in a split second when you feel that fear [in] your body, your mind senses fear and I don’t know what happens and it sets off a cascade of physical feelings. It feels debilitating like you can’t think, you can’t concentrate, you have to fight so hard to stay focused and not go into that real strong powerful flight response.”

When we asked lawyers, through our survey, what if any impact attending court has had on their client's health, they responded as follows.

I have had people who need to take time off work because they feel so stressed that they have to go to court ... people who physically feel ill after going to court.²⁶

A lot of my clients are super traumatized by going to court ... I do child protection and a lot of my clients were children in the system themselves and it's a really big PTSD trigger for them even just hearing the words "social worker," let alone going to court [and] having to make decisions regarding their children being in care.²⁷

I've had some clients whose anxiety about going to court manifests as physical symptoms with their stomach and intestines. The night before court is terrifying for many clients and the morning of court starts out terrible due to the lack of good sleep the night before. Sometimes we need to adjourn because the client is so physically ill from the anxiety. Then it's like a loop, because the adjournment just pushes court to a new day and the client goes through the entire process again. I've had clients have to go to the ER because of these physical symptoms of their anxiety.²⁸

The higher incidence of violence that women experience in smaller communities, coupled with the detrimental impact that attending court can have on their health, motivated us to explore the experiences of people attending court outside of urban centres in BC.

Fernie, BC Courthouse PHOTO JAMES GABBERT/ISTOCK





Challenges and Recommendations

This section describes our findings on the challenges that survivors of violence face in attending court in smaller communities. For each challenge we have proposed one or more recommendations; however, we acknowledge that we are contributing to a broad conversation and there may be many other creative ways to address these collective challenges.

CHALLENGE

Lack of Safe or Private Space

Having room to meet with your client ... it shouldn't be something that you have to fight for, you know? How do you have a meaningful conversation with a client and give them advice when you're worried about what is being heard and seen and stuff like that? There is no privacy.²⁹

One of the main challenges we identified is the lack of physical space in courthouses. This impacts the ability of opposing parties to be separate from each other and the ability of clients to have private conversations with lawyers or support workers. Small courthouses often have one shared space where everyone waits. For example, in some courthouses, chairs are placed on either side of a hallway, close together, and court users must face each other while waiting for their matter to be called. A lack of seating was noted for almost all locations, so some people must stand against the wall, potentially for hours.

In smaller communities, courthouses frequently have one courtroom, where participants all sit and wait together. Many women described the experience of sitting in the courtroom or shared waiting room with their abuser as traumatic. The potential adverse effects of being in a small space with an abuser are especially pronounced in smaller communities, because circuit courts often sit for very full days, with all matters scheduled for 9:30 in the morning and heard one after another. Survivors described sitting in this small space with their abuser, often for the whole day, and having no real option to leave or wait in another space, because they did not know when their matter would be called. Women described having negative experiences regardless of whether they had access to counsel.

One key informant explained:

The anxiety is extremely high ... you're just shaking... It's very unsettling to have to walk by or interact with that person with that animosity that you can just feel the anger coming off of them and then you're worried the next few days too and the few nights because you know how angry they are, and you've already seen it so you're more on guard. Your anxiety is — you don't sleep, you're emotional. It's stress.³⁰

Our past research also found that one of the most traumatic aspects of courthouses identified by survivors is the experience of having to sit and wait in the same space with their abuser.³¹ Overcrowded shared spaces within urban courthouses can also increase the risk of safety concerns, particularly for families with a history of domestic violence.³² Separate waiting areas in courthouses could reduce the need for survivors to have to interact with their abuser and make accessing court a safer experience.

Key informants also explained that in smaller communities, being in the courthouse is difficult for litigants because people are likely to know many, if not all, of the other people in the courthouse. People described feeling that they had no privacy, as they could be seen by other members of their community, and they felt concern that their court matters would not necessarily stay in the courthouse. Courthouses cannot change the dynamics of smaller communities and the closer relationships that are present within those communities. However, these dynamics highlight the heightened impact that lack of space can have in small communities. The following three quotes from key informants speak to the limited space in courthouses:

It depends on the day but a lot of times ... it's a complete full house. It's not a very big courthouse so ... there is no privacy, I guess, and that's part of the thing with the court is everybody can sit there and listen to what you have to discuss. You're in the hallway and everybody can hear everything about everybody's cases. I found that harder than a lot of things — it's hard.³³

It's different in each of the courthouses, of course. Courtenay is pretty good, they have interview rooms there, but of course duty counsel, pre-COVID, would take up two of the rooms, then you're left to finding a quiet spot in the hallway or maybe taking them [clients] outside or going down to the library, and that's the same thing in Campbell River. There are essentially two interview rooms for duty counsel and there is one extra room, and then again pre-COVID the extra room usually got taken up by director's counsel on CFCSA matters because they were debriefing or getting instructions between social workers and director's counsel. Again, it is very very difficult to find an interview room. In Gold River there are no interview rooms, but they only sit four times a year. Up in Port Hardy there is no interview room at all and quite often you just find a space in the hallway, or you head out in the parking lot — whatever you need to do.³⁴



Hazelton, BC Courthouse PHOTO PROVINCIALCOURT.BC.CA

Hazelton is definitely pretty close quarters. Everybody who has court that day is sitting in a little room basically.³⁵

Lawyers and advocates explained that they are often trying to have quiet conversations with their clients in shared spaces or hallways where everyone is waiting. These conversations cannot be confidential. To have private conversations when the interview rooms are full, lawyers and advocates often must go outside the courthouse, which can be very difficult in BC's frequently rainy climate, and during cold winter months. People also mentioned that they sit with clients in their cars to have private conversations, but this has been impractical during the COVID-19 pandemic. Many lawyers who travel to court in smaller communities may not have offices nearby to meet with their clients and will need to have conversations at the courthouse. Further, many lawyers who work as sole practitioners do not have regular office space and rely on courthouses for meeting spaces.

One lawyer who attends a northern circuit commented:

Generally with all locations it is a fight to find space; there is no room set aside, there is no safe space out there. It is one room that is set aside for clients and their lawyers to talk in. Any given day there is more than one matter scheduled in court so if you're not the first lawyer there, or the lawyer with the most cases on the court list that day, you're probably not getting that room.³⁶

There are many reasons why lawyers may need to speak with their clients privately on the day of court. For lawyers attending circuit courts, the day of court is often the first time they meet their client in person, and communications by telephone may have been limited. Late disclosure of evidence and negotiations can also create the need for last-minute instructions. Overall, it is unrealistic to expect lawyers to not need to speak, even briefly, with their clients in private on the day of court. This is particularly true for clients who have access to legal aid.

Many legal aid lawyers work hard to minimize any unnecessary time on a file because they have limited hours. Legal aid lawyers may prefer to meet with their client right before court because it is most efficient for them. Lack of a private space to meet their client may impact the lawyer's

ability to efficiently provide representation. The next two quotes from key informants highlight the difficulty of the lack of private spaces in court for lawyers to speak with clients.

[In] Burns Lake, Hazelton, Houston we really need more spaces. Only having one interview room is a huge challenge. We know that there is an access-to-justice issue generally, and the inability to have private space to talk with your client is just another glaring hole in the system.³⁷

[I]n the North, going outside even in October on some of the days can be really cold so going outside to speak with your client is not an ideal situation, but that's often what we're left with.³⁸

Many courthouses in BC were not originally designed as courthouses. In small communities, court is often held in buildings with other primary purposes, with the spaces only used as a courthouse for a few days each month or year. We recognize that communities are often doing the best they can to allow court to function in a space that was not created to address the needs of court users. Where people do create makeshift opportunities to have private conversations, they are often rushed to return to the courtroom because of the lack of a paging system. Below we propose six recommendations to reduce the challenges court users face because of the lack of space in smaller courthouses.

RECOMMENDATIONS

1. Paging Systems

Many courthouses do not have a paging system within the building, and if they do, it does not reach people outside the building. In some buildings with no paging system, we heard that when someone's matter is called and they are waiting outside the courtroom or in the parking lot, the support worker or Crown counsel will have to go look for that person.

We recommend expanding paging systems to allow people to wait outside the courtroom and in any part of the courthouse as well as outside the courthouse. We propose a paging system where clerks can either provide people with on-premises paging or where people are texted by clerks. On-premises paging systems are frequently used in restaurants while customers wait for their table. They use a data token, often a coaster-like device that alerts the customer when a table is available for them, and a paging transmitter that can be programmed to broadcast a paging message.³⁹ An online paging system is another option, in which the text alert is sent to people's cellphones.⁴⁰

For example, the Franklin City Court in Indiana, US, recently implemented an on-premises paging system to avoid crowds of lawyers and litigants outside the courtroom during the COVID-19 pandemic. Every lawyer and person who has a court date receives a pager, so they can wait outside

the courthouse and be paged when their matter is called to be heard. The system costs about US\$600 to install.⁴¹ Implementing this type of low-cost system could help lawyers who need to meet privately with clients and also help survivors who want to wait somewhere apart from the other party. This is not a perfect solution to the existing problem of a lack of space, because people will likely be waiting in places that have little to no way of being monitored, such as in their car, outside the building, or in a place in the courthouse away from sheriffs and other safety supports. However, this is one low-barrier recommendation that could provide flexibility and increase safety for some court users.

2. Safe Interview Rooms and Separate Waiting Rooms

*I think there is something so re-traumatizing about having people in the same room. Sometimes that's what you need but very often, especially in family law, it's completely unproductive. There's no reason. These people don't see each other every day any more, they have separated for a reason. There's absolutely no reason for them to need to have an in-person interaction like that.*⁴²

Survivors of violence need to be able to stay apart from the opposing party while they wait for their court matter. The separation of spaces helps to reduce interactions between the parties that are unnecessary, potentially harmful, and dangerous. It reduces the stress of having to be in close physical proximity to the other party all day.

For courthouses that do not have space for two waiting rooms, it may be possible for half the parties to wait in the existing waiting room and the other half to wait in the courtroom. Both areas should be clearly designated so that one party (for example, the party whose name comes first in the action) waits outside the courtroom and the other party waits inside the courtroom. Both waiting areas should ideally be visible to a sheriff. Below are two quotes from key informants that recommend separate waiting rooms for parties.

There needs to be a separation for the people coming in as you shouldn't have to have your ex swearing at you and calling you bad names. You're already in such a high stress level because you know them



“I think there is something so re-traumatizing about having people in the same room. Sometimes that's what you need but very often, especially in family law, it's completely unproductive. There's no reason. These people don't see each other every day any more, they have separated for a reason. There's absolutely no reason for them to need to have an in-person interaction like that.”

*and what they're like. You're scared as it is going in. That one time he just got up and stormed out, we didn't know where he went or what he was doing. You have to peek down the hallway and try to see if somebody is around or if it is safe to go in yet. Can you go sit here? Can you go there? When you're in the courthouse ... believe me, that is really unnerving. And then walking out afterwards, you're walking out alone usually...*⁴³

*Unfortunately, the layout of many of these old courthouses makes it impossible for opposing parties to gather or wait for court without having to be in and around each other. If they have counsel, counsel can sometimes find them a spot to wait, away from the opposing party. It would help parties if they were not forced to wait in the presence of each other...where often body language, looks, under-the-breath or even overt comments are made to intimidate. Frankly, there should be a separate waiting area with signage.*⁴⁴

We recommend courthouses evaluate whether there is space for the implementation of safe interview rooms, and consider how to create separate waiting areas.

3. Safe Room for Trials and Hearings

In addition to having separate waiting areas for groups of people, ideally courthouses should have a safe room for survivors who are testifying or are part of a trial. Some of our key informants worked in courthouses where there was an option for a witness or litigant to wait in a safe room that was designated for them for the day. These rooms are different than interview rooms because they often include features that tend to reduce stress, including comfortable seating, a TV, activities for children, and snacks. The rooms allow the person to be separate from the other party, but also go further by featuring elements that centre the person's safety and comfort. Several key informants had access to these safe rooms, also called Victim Services rooms, and described their positive effects.

*I've been in that room [the Victim Services room in the Smithers courthouse] several times now, and when people come into the room they almost always do one of these [breathes out loudly] ... just that breath out like a "whoa," and that it is the kind of a place where they can relax and debrief a little bit, whereas if everyone was sitting in the hallway, there wouldn't be that opportunity to breathe.*⁴⁵

*That room [the Victim Services room in the Smithers courthouse] is a game changer.*⁴⁶

*Have assigned family rooms so each side can have one and you have it for the day or the week, whatever you need, and you can go in there and you can just stay, you don't have to stay in the hallway and wait with other people there lined up for their court matters.*⁴⁷

We recommend courthouses evaluate whether there is space for the implementation of safe rooms for court users with safety concerns.

4. Shared Space in Courthouse Library

We recommend that courthouses that lack space for private rooms, and separate waiting areas, explore the option of whether there is space inside courthouse libraries that can help meet the needs of court users. It is our understanding that several of the locations that lack private spaces have functioning courthouse libraries that are rarely open and infrequently used. Our general understanding from our interviews is that many courthouse libraries around the province are underutilized and inaccessible to court users; however, we acknowledge that there are widely divergent views on this subject, and we are not suggesting that space and resources should be taken away from libraries.

Our recommendations surrounding courthouse libraries are twofold. First, we recommend an audit of all the courthouse libraries in the province to determine if the space can be made available or modified to allow for dual usage, such as meeting rooms that could double as interview rooms or a safe room. Given that many books and legal resources are now accessed primarily online instead of in hard copy, the ways in which library space is best used to create the best experience for court users may have changed.

Second, we recommend the expansion of existing courthouse library services. As we discuss later in the report, court is complex and intimidating and often court users are navigating court without a lawyer or support person. Courthouse libraries can play a vital role in assisting court users to obtain legal information and ensure that people of limited means have access to photocopiers, printers, court forms, computers, and legal information. Since courts still frequently require hard copies of documents, access to this equipment is often needed before, during, and after court. As one key informant explained, “It is an access-to-justice issue that the library spaces are [sometimes] inaccessible.”⁴⁸

The non-profit organization Courthouse Libraries BC provides expansive services, including public legal education and assistance through law librarians by email and phone. There are currently 30 courthouse libraries around the province with various staffing levels. Members of the Law Society of BC and notaries can access courthouse libraries during unstaffed hours, provided the courthouse

We recommend that courthouses that lack space for private rooms, and separate waiting areas, explore the option of whether there is space inside courthouse libraries that can help meet the needs of court users.

Courthouse Libraries BC is a non-profit, and expanding services requires investment from the courthouses and appropriate government bodies and/or external funders.

is open to them. Members of the public can access courthouse libraries during staffed hours. As public hours vary by location, public access information is shared with users on the Courthouse Libraries BC website, the Clicklaw website, and on the door of each courthouse library.

Each courthouse library is equipped with at least one computer and printer and some locations have photocopiers. In locations that are staffed part-time, members of the public can only access the computers and printers during those staffed hours. Printing is free in all part time locations and printing and photocopying fees can be waived upon request in all full-time locations.

There are numerous reasons that courthouse library spaces currently appear to be underutilized: for members of the public at least, they have limited hours; people may require a card to access them; court users are not aware whether they can use the library; court users may need the help of library staff to effectively use the available resources; and lawyers may not need to use the library because they have their own office.

Key informants made the following comments about courthouse libraries:

The library is only unlocked part time, so you would have to be there when it's unlocked and there's a woman who works in there who can help you, but to just go in there, it's most likely locked.⁴⁹

I think there is a library, but I don't know if you're allowed to access it. Any time I had to photocopy I had to go to the court registry, and they charge you a dollar a page.⁵⁰

Most people do not seem to be aware that there is a courthouse library. Hours should be posted along with information about how people can make use of the resources available.⁵¹

There's supposed to be legal information and resources there and there's computers and printers and stuff like that. But there's nothing from the courthouse directing you there. It's not easy to find anything, it's not a dedicated space.⁵²

We recommend a review in all courthouses on how to best use the library and ensure people know how to access it. This review should be done in consultation between Courthouse Libraries BC, courthouse staff, lawyers, Victim Services workers, and court users about ways the spaces can be used to ensure they are meeting the needs of people accessing courthouses. Courthouse Libraries BC, as noted, is a non-profit organization, and expanding these services requires investment from the courthouses and appropriate government bodies and/or external funders.

5. Parking Lot Trailer

A well-designed trailer outside the courthouse on court days may be an option for courthouses that have no way to modify their space to accommodate a second waiting area or private interview rooms. The trailer could be soundproofed, only accessible to lawyers and their clients, and visually monitored in some way to ensure everyone inside is safe. This recommendation may not be suitable for all locations, but it may provide a way to create additional space without expensive modifications to courthouses themselves. When we proposed this recommendation to one lawyer who was a key informant in our research, they said:

It's funny because we've actually had ideas where the upper management has asked us, "If you could have whatever you wanted, and financial resources weren't at issue, what would it be?" ... We discussed a ... mobile office just like a motorhome kind of a thing that we could just roll out with. It's got a kitchen in there and you can have food and meet with people in a trauma-informed neutral setting that's more like "Come on in, welcome to our house" kind of deal that would make it easier and more accessible for clients. That's something that we have actually discussed so [having a trailer] would be amazing.⁵³

6. Improving the Experience of Giving Testimony

Legal professionals must balance various objectives during hearings, including sensitivity towards and the safety of those who are giving their testimony.⁵⁴ In criminal court there are provisions such as screens and video testimony that permit vulnerable witnesses to be separated from the accused.⁵⁵ These provisions are intended to create a less traumatic environment for testifying.⁵⁶

Applications to allow a witness to apply to testify by closed-circuit television or other technology can be made in family court under section 73 of the *Evidence Act*.⁵⁷ Counsel or one of the parties can make the request before the day of the hearing or trial in a case management or a trial management conference. Case law in BC shows that the courts have allowed people in family court to testify remotely, within the courthouse, with an independent observer and a support person.⁵⁸



“We discussed a ... mobile office just like a motorhome kind of a thing that we could just roll out with. It's got a kitchen in there and you can have food and meet with people in a trauma-informed neutral setting that's more like “Come on in, welcome to our house” kind of deal that would make it easier and more accessible for clients. That's something that we have actually discussed so [having a trailer] would be amazing.”

Similar provisions are made in Australia and the UK, and South African courts go even further, allowing intermediary persons to be appointed, acting as a go-between for the witness and the court.⁵⁹ We recommend courthouses expand their use of screens to people in family law hearings and consider practices that make it easier for people to testify without having to be physically present and in view of the opposing party.

One key informant we interviewed testified in her family law matter and describes how difficult it was to see her abuser while she was on the stand being cross-examined by the opposing counsel.

I just wanted not to have to stare at [the opposing party] when I was getting cross-examined 'cause he is right in your line of vision, so I put a box of Kleenex in front of my face just to give myself some privacy and the judge told me to move it because he said that it wasn't allowed. I was trying to get a little bit of privacy ... so that you don't have to stare directly at [the opposing party], who is glaring at you.⁶⁰

We also recommend creating more options to avoid survivors of violence being cross-examined by their abuser; this is particularly likely to occur in family court due to the high number of self-represented litigants. In the 2021 BC Supreme Court case of *TAO v DJM*, the claimant had offered to pay \$1,500 of legal costs to the opposing party so he could retain counsel to cross-examine her. The judge granted this application and noted that the \$1,500 might not be sufficient to cover the costs and ordered that any excess costs be covered by the opposing party. Some people will not be able to offer to pay these fees, and there needs to be a free option for appointing counsel in these situations. The risk of being cross-examined by their abuser is something that survivors will be considering when determining whether to proceed to trial. As Justice Palbinder Shergill decided in *TAO v DJM*, there are serious potential harms when alleged abusers are permitted to cross-examine the opposing party, and appointing another counsel “will avoid any potential trauma which could arise from permitting an alleged abuser to cross-examine the complainant.”⁶¹ Additionally, if survivors are self-represented, they may want the assistance of counsel to cross-examine the opposing party, which should be available to them for free if they cannot afford to hire a lawyer.

Finally, we recommend that in some cases it may be beneficial to give witnesses the option to have a microphone that amplifies their voice. Currently, when there are microphones in the witness box, they are usually only able to record what is being said and do not increase the volume of the testimony. Testifying can be a very stressful and intimidating experience for people and may result in some people speaking softly. Since the judge and parties in the courtroom have to hear clearly the responses, quiet witnesses are often regularly asked to “speak up,” and this can lead to additional stress and discomfort. Having microphones that can amplify someone’s voice if necessary could make it easier for some witnesses to give testimony and make it easier for everyone to clearly hear their answers.

CHALLENGE

Safe Entry and Exit

Hopefully they'll get out of there first, but [if] there is an overlap... it's scary. When I represented myself ... I would just sit in the courtroom until I was sure that they were cleared out and gone. You just have to sit in there longer trying to protect yourself from any altercation, and you're scoping out wherever you're going even when you go outside the building. Is he still hanging around? You don't know because you use the same entrance where they come in and where they park and everything, there is nothing separate.⁶²

Courthouses in smaller communities often have only one entrance/exit, which makes it difficult to avoid being seen and potentially followed by the opposing party. We learned that in courthouses that do have a second entrance/exit, often one of those entrance/exits is infrequently used and/or not monitored, and key informants did not feel safe leaving that way.

Some survivors of violence report experiencing threats and intimidation from the opposing party when they attend court, and some report feeling fearful of being harmed by the opposing party or their abuser when entering and exiting the court building.⁶³ Women living in small communities talked about the added stress because their ex-partner often knew where they lived, and they would not feel safe before or after court.

Some of the women we spoke to explained that they felt they were in danger when they were leaving court because of the way their ex behaved throughout the day. For example, some indicated that their ex had behaved in angry and volatile ways at the courthouse, ignoring direction from the court and intimidating them in hallways. One woman told us that

all the years of court and him actually getting up and storming out ... sometimes when judges are talking, it petrifies you because you don't know if that anger is going to carry over later. I very rarely go outside by myself.⁶⁴

In a 2019 survey conducted by Rise, and completed by 27 survivors of intimate partner violence, 42.3% indicated that they had safety concerns attending the courthouse and/or courtroom, and 61.5% explained they had concerns for their safety either before or after court hearings. Some talked about being followed out of the courthouse by their abusive ex-partner and even followed in their car after they had left the courthouse. Women we spoke to wished there was something in place to increase their safety while they were at court. Some of the women explained that their concerns were alleviated by having a sheriff or another person accompany them out of the building, much like “safe walk” programs on campuses, but many courthouses did not have this option.

Some of my clients have actually told me that they feel more at risk of harassment from their ex after they leave the courthouse, because at least the supports are there [at the courthouse] (lawyers, sheriff).⁶⁵

Below we make two key recommendations to address the challenges identified by our key informants for survivors of violence when they enter and exit the courthouse.

RECOMMENDATIONS

1. Two Entrance/Exits

We recommend courthouses have two entrance/exits that are clearly marked in the building, and that are visible to courthouse staff and monitored for safety. Ideally these entrance/exits should allow opposing litigants to leave the building separately. People commented that in some courthouses there were additional “back doors,” but they were not monitored and were often necessary for fire safety. In these instances doors could be monitored by video, and signage could be used to indicate whether the door is monitored for safety or not.

2. “Safe Walk” Service

The second recommendation is for sheriffs (or other court security personnel) to offer a “safe walk” service in family law matters. Having a sheriff available to assist with parties leaving the courtroom and the courthouse would increase safety.⁶⁶ We understand that in many situations sheriffs will already accompany court users to their car after court if they are asked, but many self-represented people have no way of knowing that this service is available. If not enough sheriffs are available to allow for one to leave the courthouse, then an alternative includes the creation of a “safe walk” program where volunteers accompany family law participants while on courthouse premises on court days.⁶⁷

When we proposed this recommendation to one court user, she said:

Having somebody walk you out would be a great idea just so you get in your car and ... at least you're in there and you're okay. I think that would've been wonderful because then it would show [the opposing party] that somebody is watching.⁶⁸

We recognize that many people attending court do not have a vehicle, and their safety leaving the court is more precarious given the challenges with transportation we discuss later in this report. We recommend that this “safe walk” service could include being walked to a taxi or a designated nearby bus stop.

CHALLENGE

Inadequate Directions

I often see people [at court] like, “What’s going on?” Nobody knows where they’re supposed to go or what’s supposed to be happening, honestly. There’s nothing to indicate what you’re supposed to be doing.”⁶⁹

When people arrive at court, there is often no clear direction about where they should go or what they should expect. Some people will be supported by an advocate or a lawyer, and in some situations, there may be a sheriff there to assist. However, many people arriving at a courthouse enter a space that feels unsafe and are unsure about what they should do next. There are often no signs that indicate where they should wait, where they can speak with duty counsel, or who they can ask for help if they have any questions.

Ambiguous or difficult wayfinding may cause excessive stress for people, particularly those with past experiences of trauma.⁷⁰ A lack of clear directions and signage can have a substantial impact on how individuals interact within a setting, and inadequate signage has been identified as a contributing factor to security and safety concerns.⁷¹

Many people navigate family court processes with no supports. In family court, many people cannot afford a lawyer and do not qualify for legal aid. Through our research we heard that many people who have questions in the courthouse go to the registry for help. Some key informants spoke of the incredibly valuable services that the court registry staff provided. People referred to them as the gatekeepers to the legal process. Someone said, “These are the people that get things done and make things happen.”⁷²

However, key informants — including lawyers, support workers, and self-represented parties — also described having negative experiences with court registry staff. We recognize that in many instances, people approach court registry staff with questions that the registry is simply unable to help with, from asking for legal advice to asking for emotional supports. However, for many court users, the registry is the only place in the courthouse where they can ask a question. We propose four recommendations to assist court users to navigate court.

There are often no signs that indicate where they should wait, where they can speak with duty counsel, or who they can ask for help if they have any questions.

RECOMMENDATIONS

1. Courthouse Navigators or “Court Concierges”

We recommend that courthouses be staffed with navigators who can direct court users around the physical space, assist people with connecting to duty counsel, share information about courthouse libraries, let them know where they can wait and if safe rooms are available, and answer basic questions about what to expect while at the courthouse. Given that many people are not represented by counsel and have no support worker, a courthouse navigator could reduce stress by helping people understand the court environment and resources. They could also assist people when they are finished their court matters by explaining next steps, such as where to go to schedule their next court appearance, or where to go file an order once it has been signed.

Duty counsel can only assist one person at a time, and in family cases they can only assist one party due to the rules relating to conflicts of interest. Duty counsel are also not available at all times, and they may spend a significant amount of time actively appearing in court, making them unavailable to people just arriving at the courthouse. Courthouse navigators could be more regularly available and could provide basic information that does not create conflict-of-interest concerns, which would mean that they could assist all court users. When we proposed this recommendation to a key informant later in our research project, they responded:

I think it would be really great if we did have some sort of court navigators or advocates in our locations. A lot of our clients have been through the court doors a number of times and it's always a bad experience, so having somebody there ... would be really nice — especially for self-reps.⁷³

During the COVID-19 pandemic, courthouses often had sheriffs present at the front doors of the courthouse to administer the screening questions for COVID-19. We understand that this had a positive effect for some people attending court, because they were able to ask the sheriff conducting the screening a few questions about where to go. If someone could continue to fill this role after COVID-19 screening is no longer necessary, it could have real benefits for court users.

2. Increased Funding for Court Support Workers

I think some people are traumatized by the court system. I mean ideally there should be someone like me [Victim Services worker] that is assigned to family court, so that people don't have to go to court not knowing what's going to happen.⁷⁴

People need more support through family court to assist them with their legal case and to address issues that fall outside the scope of a lawyer's role. BC has had insufficient family law legal aid for decades; while the government has created many new pilots and programs, these tend to be patchwork in nature and have never resulted in a comprehensive family law legal aid program.⁷⁵

Family court users would benefit from having a person who can provide the same assistance as a Victim Services worker, particularly if they have experienced or are experiencing violence.

In addition to our continuing recommendation that Legal Aid BC be given funding to expand its family law services, particularly for survivors of violence, we are recommending the extension of funding for support workers who have expertise in family violence. Support workers can support clients with court appearances and forms, assist with safety planning, and provide continuity of support that often outlives a client's relationship with counsel. Research shows that the presence of a known and trusted individual increases a person's ability to testify, feelings of confidence, and responsiveness to questions.⁷⁶

The Law Foundation of BC already maintains a network of lay "advocates" who work in organizations across the province; this system should be strengthened by increasing its capacity and reach. Among their many duties, advocates can provide legal information, assistance with completing legal forms, emotional support, referrals to non-legal supports, and plain-language explanations of legal proceedings.

Support workers or advocates are a part of the structure of the Parents Legal Centre (PLC). There are ten PLCs in BC, and with a collaborative approach they are designed to help parents resolve their child protection matters. Two of the lawyers we spoke to described the success of working with an advocate as part of their team at the Parents Legal Centre.

Through the Parents Legal Centres we also have either an advocate or an Aboriginal community legal worker [ACLW] that's part of our office. Pre-Covid we would have our advocate or ACLW be able to sit with clients as well in the gallery. It's quite successful, you've got clients that are nervous enough already being part of the court process or may not quite fully understand what all the moving parts are or where they are going but having our wraparound support there, we found that it really assisted with clients in being more comfortable with the process and getting a better understanding of what was going on.⁷⁷

Our advocate attends appointments with our clients and the social workers to be there to document everything that's been said on behalf of MCFD [Ministry of Children and Family Development] and also to ensure that the client's voice is heard and the client's concerns are being addressed.⁷⁸

In criminal court, a Victim Services workers can provide information, act as a buffer between the parties, access a safe space in the courthouse if it exists, and provide a safe walk and sometimes transportation for a person. Family court users would benefit from having a person who can provide the same assistance as a Victim Services worker, particularly if they have experienced or are experiencing violence.

3. Expanded Role for McKenzie Friends, Advocates, and Support Workers

We recommend that court services and judges provide clear direction that advocates and support workers can apply for protection orders on behalf of clients under section 183(1) of the *Family Law Act*, which allows for “another person” to apply for the protection order “on behalf of the ‘at risk’ family member.”⁷⁹ A protection order is a civil court order intended to protect at-risk family members from family violence by another party; however, if the order is breached, criminal charges may be laid.

The new family court forms that came into effect in 2021, and the information on the roles of “McKenzie friends” provided by the Provincial Court, do not make it clear that “any person” can apply for a protection order. As outlined by Courthouse Libraries BC, a McKenzie friend is a support person who sits alongside someone appearing in court without a lawyer — a “self-represented

A McKenzie friend is a support person who sits alongside someone appearing in court without a lawyer — a “self-represented litigant.” Their role is to provide practical and emotional support during the court process by helping to keep the self-represented litigant organized, calm and focused.

litigant.” Their role is to provide practical and emotional support during the court process by helping to keep the self-represented litigant organized, calm and focused. Anyone can act as a McKenzie friend but generally it is a trusted family member or friend, and ultimately their presence in the courtroom is allowed only at a judge’s discretion.⁸⁰

Our understanding from support workers throughout the province is that they do not feel a court would allow them to make a protection order application on behalf of the client they are supporting.

We further recommend that advocates, McKenzie friends, and support workers be able to attend case conferences with clients.⁸¹ We understand that people other than counsel are not allowed within case conferences without the permission of the opposing party and the judge.⁸² There is of course a need to respect the choice of the opposing party, but in 2020/21, 40% of litigants in family law matters in BC were self-represented, and a McKenzie friend can help mitigate the impact of appearing without counsel.⁸³ Further, when the client is represented by a lawyer, they still may benefit from a support person. Lawyers in BC are currently not required to have any education on family violence or trauma-informed

care. Support workers bring expertise that is often lacking among legal professionals; they can improve clients’ safety during the case conference and afterwards.

One advocate commented on trying to attend a family case conference with a client in Provincial Court and stated:

The legal system should allow court users to have a support person whether or not they have a lawyer. Also, the opposing party should not be able to prevent a support person from being present, especially in cases where there has been family violence. Many lawyers are not trauma-informed, and not being sensitive to the trauma a client has faced, they often don't recognize the importance of explaining everything to the client. A support person can discuss what happened ... afterwards, providing crucial emotional support, and make the client more comfortable with the court process.

Clients often tell me that they felt pressured by their lawyer and didn't really understand what was going on. If their lawyers tell them to do something, they do it, even though they didn't really agree or needed more explanation to understand the consequences. It is too bad that support people are often left out of the loop at that stage because it leads to all kinds of problems down the road. Instead of following the terms they consented to, a client might start fighting back and saying that the lawyer gave them no choice, they didn't really understand, or they felt pressured or uncomfortable being in the room with the opposing party. I think having a support person could make a world of difference.⁸⁴

4. Clear Signage

When people walk into courthouses, they often need directions about where to go. Clear, uncluttered, multilingual signage is fundamental to promote stress-free navigation.⁸⁵

There may be opportunities to make courthouse signage more trauma-informed in its messaging. For example, in an opinion piece, Brenidy Rice, deputy director of court services, and Judge Ann Meinster, presiding juvenile judge in Colorado, recommend to “[t]ry a sign that asks participants to help you keep the courtroom calm and quiet by turning off their phones. You don’t have to show a picture of a phone within a circle and a big X through the phone to make your point.”⁸⁶ In general images may be easier to understand for people with lower literacy skills and those who speak languages other than English. Consulting with a variety of court users would be helpful to identify the signage that is needed and the best way to communicate information.

Court is Complex and Intimidating

[Court is] very different and people might not know what's going on. It's definitely not a comfortable place. It's almost like walking on pins and needles to see how things will unfold and how things will go.⁸⁷

I definitely wish that there was some sort of how-to for the Supreme Court ... like an actual here's what happens: you walk into the building, you walk to the fourth floor, you find the courtroom, there's going to be a hallway that looks like this, you're going to go inside, everybody is going to be sitting — you know, the whole thing. Then the judge is going to say this, and you're going to have to go up and announce yourself to the register [and] then they're going to start calling out cases like that, like an actual how-to. That would really help to alleviate a lot of the anxiety.⁸⁸

Even with efforts to make courts more user friendly, court is a very confusing place for most people. It would be so much better if plain language could be used. If a judge says, "Okay, we are going to stand it down so you can talk to duty counsel," a person usually does not understand what that means or whether they are supposed to return to the courtroom. The experience is already so stressful, and often emotional, and the court user shouldn't have to struggle to figure out what is going on. Even though some changes have been made to help people to self-rep, we're still not there yet.⁸⁹

Court is complex. In our interviews with experts, and our review of secondary sources, we heard a resounding theme that court is very difficult to understand and people often feel intimidated by the environment. Lawyers and people working within courthouses have years of training that includes navigating the language and rules of court procedure. Julie Macfarlane, conducting research for the National Self-Represented Litigants Project, found that self-represented litigants often feel like they are outsiders in court.⁹⁰ Many family law participants have expressed having feelings of inferiority and inadequacy within courtroom settings and described the environment as complex and intimidating.⁹¹

It's an incredibly stressful process for clients, and for so many different reasons, including being face to face with and up against an abusive partner, the introduction to an unfamiliar [legal] system and people in positions of authority who might look down on them and their experience, and also that sense of shame that so permeates the experience of abuse. What I also often hear from clients is "He is so smart, he is so charming, you're never going to believe he is an abuser. The judge is never going to believe he is an abuser." As a result, there is also the fear of "what if you're told

that you are wrong,” that their experience doesn’t meet the definition of family violence or the risk of harm is insufficient for the remedy sought, such that a survivor’s experience is invalidated.⁹²

Courtrooms are generally organized to reflect and reinforce hierarchies in the legal system. Judges sit elevated above the rest of the room, in a special robe, and have different honorifics depending on the court. Lawyers, who may also be wearing robes, are separated from clients and self-represented litigants by a physical barrier known as the bar. For a self-represented person entering a family court matter, there is no way of knowing legal customs, like bowing or when to sit and when to stand. More importantly, legal system professionals often speak in technical language; the commonly used term “legalese” highlights the extent to which this can be perceived as an entirely different language.

It is hard enough representing yourself, especially in matters that have high stakes like custody, and you’re in Supreme Court, which is a very formal environment... I tried to do unbundled services, I talked to lawyers but there is nothing to demystify that process at all. [Then] you also have the anticipation of that person you’re really afraid of being there in your space, and there is an energetic component to it so you are afraid of that person so all of the physical experiences that you have, they are all working in the background so your heart is beating faster, you have a tight chest. I remember having a tight chest, tight stomach, looking around, you’re always just looking and looking, it is hard to stay focused and stay calm.⁹³

Research shows that these elements of the courtroom increase feelings of fear, anxiety, and insignificance.⁹⁴ One court user described court as “mystical” and impossible to understand. Similarly, observing private casual banter between lawyers, court staff, and judges, amid the relatively formal court setting, was described by key informants as inducing feelings of inadequacy and alienation.⁹⁵ While we recognize that working relationships are a part of life for court staff, research shows that even simple behavioural changes within the family law courtroom can make a significant difference in reducing court users’ sense of intimidation.⁹⁶



“I remember having a tight chest, tight stomach, looking around, you’re always just looking and looking, it is hard to stay focused and stay calm.”

We recognize the complexity of changing legal terms into plain language; however, more needs to be done to make legal processes accessible to all court users.

Further, in addition to the environment itself being intimidating, abusers often use the court system as a way of furthering their violence, through frequent applications, false allegations, and various other tactics often termed “litigation abuse.”⁹⁷ In one of our past reports, we wrote about litigation abuse and the difficult position survivors of violence are put in when they are being taken to court. One survivor of violence from our past research explained:

*[T]he system works really well for the person in power because they have control. They set a court date, and you have to be there. You can't not show up. And every crazy little thing they bring up — you have to respond [to]. For years, I didn't respond to his attempts to get me riled up, and all of a sudden he was in heaven because I had to engage with everything.*⁹⁸

The following two recommendations aim to address the complexities of court for court users, and especially for self-representing litigants.

RECOMMENDATIONS

1. Handouts for Court Users

Depending on the courthouse, these materials may include what to expect during a family court remand list, the layout of the courthouse, and where someone can go with questions about the court processes. Handouts should be specific to each courthouse, otherwise they may be too general to be helpful. Ideally these handouts would be available online through each individual court's web page. Hard copies could be provided to support workers, legal aid, and other service providers to distribute ahead of court, and could be made available at the courthouses themselves.

2. Use of Plain Language

We recommend that courthouse staff continue ongoing efforts to use plain language in all court settings. Use of plain language would make the complicated court processes easier to comprehend for court users who have no legal training. We recognize the complexity of changing legal terms into plain language; however, more needs to be done to make legal processes accessible to all court users. This was a pronounced request from the key informants who assisted with this research project.

Scheduling, Delay, and the Assize System

It's unpredictable, of course, so you don't know how everything is going to be managed, because of the dynamics. But a lot of the time things are just adjourned, you know, you'll have a long list of adjournments. It can make things really, really long on the Coast [because] when you adjourn, it's going to be two months from that time, that day.⁹⁹

I really believe that those family files would not have been as high conflict if they'[d] had things dealt with. One of the main downsides is just waiting.¹⁰⁰

There is no rhyme or reason, you can't really predict it and you can't be like, oh, there is a criminal list and a family list, everything is set for 9:30, who is gonna go first it just depends on the day, the parties, and the lawyers. It's a small town, small registry if a lawyer calls dibs like "Hey, I need to be somewhere else or do something else and call my matter first and get this over with," then the registry will be like, okay, we're doing criminal list first then, and then you go from there.¹⁰¹

The delay of legal proceedings in Canada is a complex and systemic access-to-justice problem that has been exacerbated by delays arising out of court closures due to the COVID-19 pandemic. Although we acknowledge that scheduling and delays are topics worthy of an entire report, we feel it is important to address this issue due to the uncertainty and expense that delay creates for court users.

Early and comprehensive resolution to legal problems has a direct impact on social and economic concerns such as homelessness, poor mental health, and poverty.¹⁰² Further, in some situations, an unresolved family law conflict can lead to children being taken into care, which has social and economic costs to society as well as to the family. Research by Michaela Keet, Heather Heavin, and Shawna Sparrow found that delay is a significant stressor in court proceedings.¹⁰³

Many courts in BC operate on the assize system, or a "periodic judicial proceeding," which "means that hearings/trials are scheduled to be heard during a 1 or 2 week sitting of the court ... [and] may be scheduled to start any day during that time frame."¹⁰⁴ This process creates significant scheduling problems for all parties and their counsel. Instead of blocking off one day for a hearing, parties are expected to block off the entire duration of the assize dates and be available at any time.

People travelling from out of town are expected to be available for each court day, which may mean they have to arrange child care for their children, book a hotel room, and take extended time off work. The uncertainty of when matters will be called only adds to the stress.

*With our last one [matter] over the phone, it got carried over for three days, so if that was actually in the courthouse, I would've actually had to go to the courthouse three days in a row and just sit there and wait and see if they're going to have our application that day or not.*¹⁰⁵

The transportation logistics and costs of attending court in smaller communities are significant barriers to justice. Many people have no access to public transportation or a reliable vehicle, and if they do, the BC climate, particularly in the winter and in the North, can create unsafe and unpredictable driving conditions. Long stretches of highway have no cellphone service or lighting. When people do travel, they face the costs of paying for accommodation and having to take time off work, all without being certain how long they will have to be away from home and even if their matter will be heard. All of these factors can create physical safety concerns for survivors that are additional to the ones they are facing from their abuser.

RECOMMENDATIONS

Streamlining Scheduling and Court User Design

Nearly all the harms associated with attending court would be greatly reduced if the amount of time people spent in court each day was reduced. That said, courthouses are balancing a series of complex and often competing factors that make it impossible to guarantee when people's matters will be heard.

We recommend that the government audit courthouses across the province for safety and accessibility concerns and implement recommendations. A courthouse advisory group, including court staff, court users, judges, sheriffs, and local lawyers, may be best situated to address scheduling and delay issues specific to each courthouse.

Many communities already have a group that meets to discuss court issues and improve processes, and we look forward to learning about the outcomes of these conversations. For example, we heard from one key informant that there have been conversations in their jurisdiction about how to schedule court matters, with all matters of family law being in the morning and child protection in the afternoon, to try to reduce delay.¹⁰⁶ We heard from some communities that these advisory groups are not currently inclusive of everyone who wants to voice their concerns and contribute to making improvements.

The best recommendations for how to improve delays in the court system and the various issues that impact court users would come from court users themselves. We recommend that each courthouse develop a way of gathering feedback from court users. For example, the Supreme Court of Canada asks court users to complete a questionnaire following their court hearing; we have included its list of questions in an appendix at the end of this report.

CHALLENGE

Transportation to and from Court

If you're coming from Ahousaht, for instance, just to come to Tofino is a forty-five-minute boat ride, which costs you about \$20. We have no transit on the west coast [of Vancouver Island], so if you're coming anywhere from the coast, you're walking or hitchhiking ... and then to get to Port Alberni is two and a half hours each way, and right now there's not really any transit running because of COVID, and when there is transit running ... you have to go ... the day before to make a morning matter [so you also need a hotel].¹⁰⁷

A theme of our research was the significant difficulty people face in getting to court. By their nature, circuit courts, and courthouses in smaller locations, require people from surrounding areas to travel to them. These courthouses frequently serve as a hub court for numerous surrounding communities. Getting to court is a serious access-to-justice problem with a disproportionate impact on women, because they are less likely than men to own vehicles, and in many rural and remote communities, transportation is primarily via people's personal vehicles.¹⁰⁸

The BC Society of Transition Houses (BCSTH) is currently working on a project that highlights the needs of women to have reliable and safe transportation. Their report argues that “the consequences of inadequate transportation services have been demonstrated for decades and have cost the lives of many Indigenous women and girls, specifically along Highway 16, or the Highway of Tears. Access to transportation is not a matter of convenience, it is a matter of safety and, within BC, is an act of reconciliation.”¹⁰⁹

Additional research has found that when public transportation cannot meet women's basic needs, especially during harsh winters, they may choose to hitchhike.¹¹⁰ Lack of transportation has been impacted by the COVID-19 pandemic, and as we write this report, BC faces extensive reconstruction efforts in response to the November 2021 floods that washed away significant parts of the province's highways.¹¹¹

Below are the findings from a recent survey by the BC Society of Transition Houses. Of the 75 respondents, the majority indicated that the transportation available to them does not meet their needs. A further 84% of respondents indicated that transportation is sometimes or often a barrier to them accessing services, including legal services.¹¹²

Getting to court is a serious access-to-justice problem with a disproportionate impact on women, because they are less likely than men to own vehicles.

Responses to survey question on transportation

Do the transportation services available meet women's needs?				
Distance travelled	Yes	Somewhat	No	No response
Within your community	5%	21%	69%	5%
To another community	4%	21%	72%	4%

Source: BC Society of Transition Houses (BCSTH), "Transportation Project Phase 1" (2021), p 6, Table 1.

In our key informant interviews, lawyers discussed how the location of courthouses, far from where their clients lived, made access difficult.

A lot of my clients that are in court in Burns Lake do not actually live in the village of Burns Lake. Burns Lake has a really wide area that it services, and the south side of François Lake is one such area. There is a ferry that you have to take to get across François Lake to go to Burns Lake to go to court. Getting to court in Burns Lake at 9:30 in the morning is a tough go for my clients who live on the south side. The weather in the North generally is a problem. That is a problem for a lot of people. In December, January, February we have a lot of issues of cars not starting. And then where Hazelton courthouse is located is a little bit awkward, because there is Old Hazelton and New Hazelton, and the courthouse is kind of in the middle of the two, so it's not great for people of Old Hazelton or New Hazelton to get to.¹¹³

To address the access-to-justice transportation barriers facing court users in rural and remote areas of BC, we recommend an online court registry.

Burns Lake, BC Courthouse PHOTO GOOGLE MAPS



RECOMMENDATIONS

Online Registry Accessible to Everyone

Many people currently cannot access their court file online; they have to attend the courthouse in person and pay to photocopy their court file. The inability to easily access the documents in a court file can be a significant barrier for self-represented litigants seeking legal advice. For example, many of BC's free family law services are of a summary or unbundled nature. Lawyers may not be able to give accurate and helpful advice on an ongoing file if the client cannot provide copies of existing court orders and pleadings. A comprehensive online court registry would allow people and their counsel to access court files without having to face the barriers of travelling to courthouses and would minimize the need for travel between communities.

Although BC does have an online portal, Court Services Online (CSO), this platform has significant limitations. CSO is not available for Provincial Court registries, and not all of the documents in the court file are available through CSO. Further, setting up access to CSO generally requires the client or their lawyer to physically attend the courthouse, which can be a barrier to quick access. In some cases, lawyers have been denied access to affidavit material in CSO because of confidentiality, even though they are on record and have travelled to the courthouse to confirm their identity.

The CSO system needs to be expanded and modernized. Some courthouses that do have a court registry are also limited because they are only staffed on the days when there is court. For example, Hazelton and Houston do not have court registries because everything is dealt with through the registry at the Smithers courthouse. In some locations there may be courthouse registry staff regularly working at the courthouse, but they will not speak with members of the public on days when court is not scheduled.

Making additional recommendations for how the provincial government can create safe and accessible transportation is beyond the scope of this research project. We are thankful to the BC Society of Transition Houses for their research and advocacy, and we look forward to the results of their expansive research project, BCSTH Transportation Project: Embedding a Gender-Based Approach into Northern and Rural Transportation Systems.¹¹⁴



“Burns Lake has a really wide area that it services, and the south side of François Lake is one such area. There is a ferry that you have to take to get across François Lake to go to Burns Lake to go to court. Getting to court in Burns Lake at 9:30 in the morning is a tough go for my clients who live on the south side.”

CHALLENGE

Child Care Costs

*It's exhausting, like, completely exhausting. I have never been so exhausted in my life and it's just like you're emotionally so drained, and in my situation and in many women's situations you're parenting full time, you're working full time trying to keep your head afloat, and everything with that person is a fight so any additional fight there is, it just adds to that exhaustion.*¹¹⁵

Parents are sometimes criticized for bringing their children to court; however, many families have no social or economic alternatives.¹¹⁶ A search of courthouse websites from across the province

The average cost for a babysitter is around \$15 per hour, which can add up for an entire day that a single parent would need to spend at court.

revealed that none advertised any child care programs or assistance with paying for child care for court appearances. The expectation is that parents will get child care for their child when they need to attend court. However, costs of daycare programs across BC are high, with the median cost per month in Vancouver being \$1,250, and the cost in other regions of BC \$1,000.¹¹⁷ When parents choose to find a babysitter for their children rather than a licensed daycare program (which can be difficult to place children in because of limited space), the average cost for a babysitter is around \$15 per hour,¹¹⁸ which can add up for an entire day that a single parent would need to spend at court.

The costs of child care disproportionately impact women. As noted by the Supreme Court of Canada in *Michel v Graydon*, “[W]omen still bear the bulk of child care and custody obligations and earn less money than men.”¹¹⁹ Having a safe space for children to wait while their parents attend court is a necessity. These spaces would ensure that children and their parents feel safe during the long wait times that can occur in court settings.¹²⁰

RECOMMENDATIONS

Accessible Child Care

Accessible child care provided on site could reduce the costs of attending court that are predominantly paid by mothers. We recommend that courthouses have a child-friendly space, or a family room, and employ a qualified child minder. The parent could wait with their child until their

matter is called, and the child minder could provide child care while the parent is in the courtroom to reduce disruptions during the hearing. People could book space in advance to ensure that the legal ratio of children to child-minders is respected. Given the lack of space in courthouses in smaller communities, this recommendation may be more feasible in urban areas.

These spaces may serve as an additional point of contact for resources and education, particularly for women experiencing domestic violence.¹²¹ Creating this type of environment requires a quiet and separate area that can offer a low-stress and comfortable setting. The availability of child care centres or child-friendly spaces can greatly reduce child and parental anxiety.¹²²

CHALLENGE

Facilities and Environment

*Sometimes people are coming in off the streets and they haven't had anything to eat, they haven't had anything to drink, they're dealing with stressful stuff, and they just need a little bit of water to just sort of tide them over.*¹²³

When people are attending court in smaller communities, it is possible they will be waiting for their matter to be called for the whole day. Court users need access to something to eat and drink nearby. Research shows that when people do have access to food, such as a café or a vending machine inside the courthouse, this can reduce the feelings of stress and aggression among both the court staff and the court users.¹²⁴ Further, access to adequate food and water has been shown to cultivate a more comfortable and soothing atmosphere.¹²⁵

One challenge with court processes is that people cannot easily leave the courthouse to get something to eat or drink; they must be on standby for their court matter to be called. People who do not have a lawyer have no way of knowing when their matter will be called or how to estimate the time it may take for the matters ahead of them to be heard. People who leave to get food or drink outside of the courthouse are unable to hear if they are being paged.

We were advised that in rare cases, some courthouses do not always have access to clean drinking water. People who are attending court for the first time may not know that although their matter is scheduled for 9:30 a.m., it may not be called until the afternoon. They are unlikely to have been advised to bring something to eat and drink, and they therefore may become hungry, thirsty, or at the very least uncomfortable.

In the locations where we interviewed key informants, none of them had access to any food within the courthouse. Most communities did have a restaurant, grocery store, or gas station within walking distance where someone could go to get something to eat during a break, although these services might not be accessible to people with mobility limitations. In Ucluelet and Tofino, the nearest



“I’ve had a client who was nervous to walk to the washroom, because it’s at the end of a long hallway by the seating area, so if the accused is sitting in that area you have to walk by them to access the washroom.”

place to get something to eat would be a 15-minute walk in each direction. In Terrace, people would have to drive to get something to eat. We learned that very few courthouses have a functioning water fountain, and in those that did, the fountains were often taped off during the COVID-19 pandemic.

Washrooms were identified as a challenge in courthouses in BC. We heard from key informants that the placement, size, and nature of the washrooms could cause stress for some court users.

I’ve had a client who was nervous to walk to the washroom, because it’s at the end of a long hallway by the seating area, so if the accused is sitting in that area you have to walk by them to access the washroom. It’s not the best situation where someone just needs to use the washroom and it becomes an anxiety inducing experience.¹²⁶

Key informants discussed several issues regarding washrooms in courthouses across BC:

- Minimal to no access to gender neutral washrooms.
- No trans-inclusive washroom signs.
- The washrooms and the waiting area were too close, and this made it awkward and uncomfortable to use the washroom, which was not private.
- In one case the washroom served as a place for private interviews between counsel and a witness because of the lack of space.

The environment of a courthouse affects court users and the legal professionals and courthouse staff who work there. The physical space people are in has a significant effect on their physical and mental state as well as their comfort. Ideally, courthouse environments would be designed to reduce stress.¹²⁷ However, many courthouses have noisy, crowded, and confusing spaces that create significant environmental stressors for participants suffering from traumatic experiences.¹²⁸

As outlined earlier in this report, people attending courthouses experience high levels of stress, and in some cases PTSD. Hyperarousal, the increased sensitivity to environmental stimuli, is very common in



Terrace, BC Courthouse PHOTO PROVINCIALCOURT.BC.CA

people who experience PTSD. They often can face challenges, such as impairments to critical thinking capacity, in response to a perceived threat even when none is present.¹²⁹ This state of hyperarousal can exacerbate experiences of emotional dysregulation in people who experience PTSD. Research shows that survivors can have difficulty controlling their impulses and regulating emotions, both positive and negative.¹³⁰

People experiencing PTSD are affected by their environments at a heightened level compared to the general population. For example, high levels of noise, such as in crowded areas, and sudden loud tones are associated with startle responses in individuals with PTSD.¹³¹ In addition, temperatures of over 26 degrees Celsius are correlated with decreased concentration and an increase in somatic symptoms and aggression.¹³² Research shows there are many ways to reduce the chance and severity of physiological startle responses through environmental considerations.

Improving the courthouse environment is multifaceted and includes avoiding crowding, providing comfortable and ample seating, and ensuring navigability.¹³³ In general, natural lighting, trees, and greenery are all linked to improved health outcomes and social cohesion. Changes to lighting, spatial design, and colour can significantly reduce stress, cognitive load, and trauma-related symptoms.¹³⁴ Courthouses should consider the implications of trauma-informed measures when looking at how the environment may be impacting people within complex legal proceedings.¹³⁵ Here are five recommendations relating to courthouse facilities and environments.

In the locations where we interviewed key informants, none of them had access to any food within the courthouse. In Terrace, people would have to drive to get something to eat.

RECOMMENDATIONS

1. Attention to Basic Needs

To provide comfort and safety for all court users, at minimum, drinking water should be available in all courthouses. A vending machine or some source of snacks should also be available. Washrooms in courthouses should include gender neutral and trans-inclusive washrooms.

I'm glad to have a bit of a spotlight sort of shone on some of the rural areas, and I think it can be difficult because the numbers [of people attending court] aren't huge ... but it really makes a difference for the individual justice of each person's life, how that experience unfolds, and ... yeah, I definitely think there could be improvements.¹³⁶

2. Room for Cultural Practices and/or Prayer

We recommend that courthouses create spaces that people can use, for a brief period, to complete a prayer, smudge, or other practice that may be important for them, before or after their court hearing. The creation of this room would require consultation with the local communities and populations that access particular courthouses.

3. Better Lighting

The lights in the courthouse are all fluorescent. The lack of natural light, with no windows in the courtrooms, and poor air quality are awful. I frequently develop a headache after a couple of hours there.¹³⁷

Good lighting is important in creating a comfortable environment. Better quality lighting is associated with positive effects, such as increased efficiency in decision-making, innovation in problem-solving, and better moods.¹³⁸ A study on juvenile and family courts found that full spectrum lighting (in contrast to cool toned lighting) is associated with better behaviour in children and a lower startle response.¹³⁹ Compared to standard fluorescent lighting, natural tones have been associated with improved emotional disposition and reduced startle responses.¹⁴⁰ Finally, startle responses are higher in the dark than in the light, so it is important to keep places well lit.¹⁴¹

In Ucluelet, where court is heard in the community centre, one key informant described the lighting: “It has a big skylight as you enter, a propane fireplace, and a sort of an ambience feeling. Ucluelet feels lovely because you enter on a nice path, there’s greenery, the inside is wood and white with a natural kind of floor, there’s some artwork ... the little rooms to wait in are similar.”¹⁴²

People in general find florescent lighting harsh, “yucky,” and in some cases people felt that the fluorescent lighting gave them a headache.¹⁴³ Wherever possible, we recommend that courts

consider whether fluorescent lights can be replaced with alternative lights, and whether it is possible to incorporate light fixtures with bulbs that are not fluorescent. This is a cost-effective way to reduce environmental stressors for court users and legal professionals.

4. Green Space and Artwork

*There's no nice green space at the courthouse or any other feature to soften the environment. For most people, attending court is very stressful, and the harsh environment does not help. It is too bad because there are some courthouses with elements that are pleasant.*¹⁴⁴

We recommend that wherever possible, courthouses consider ways they may be able to implement access to green space, indoor plants, and natural elements to give people a place to escape the stressful experience of attending court. If green space around or in the courthouse is not possible, a picture of nature in common waiting areas has been shown to have a calming effect. In one study, pictures of nature were linked with decreased levels of stress and improved emotional states on measures of anxiety, anger, worry, and fatigue.¹⁴⁵

We also recommend removing intimidating artwork from places where people are waiting in court and incorporating artwork by Indigenous artists as well as art to represent the diversity of people attending court. Research suggests that in contrast to red tones, which evoke more negative feelings of anxiety and arousal, blue and green hues are more likely to improve mood and alleviate anxiety.¹⁴⁶ In a few courthouse locations, the key informants mentioned there was no artwork, except pictures of retired judges along the top of the walls.¹⁴⁷

Where courthouses have been able to incorporate these elements, key informants have reported positive impacts on court users.

*Ucluelet has beautiful artwork up in the waiting area ... some beautiful Indigenous work, and in the courthouse itself there's, I think, a painting of rhododendrons or something at the back. In the Tofino waiting room, there's some poetry, a piano, and in one waiting room there is a new artwork piece that's like a ceramic mosaic that's quite beautiful, but in the courthouse itself it's quite neutral, it's just utilitarian.*¹⁴⁸



“Ucluelet has beautiful artwork up in the waiting area ... some beautiful Indigenous work, and in the courthouse itself there's, I think, a painting of rhododendrons or something at the back.”

To provide comfort and safety for all court users, at minimum, drinking water should be available in all courthouses. A vending machine or some source of snacks should also be available.

Vancouver’s Robson Square Courthouse often features artwork by local high school students, which could be a low-cost way to incorporate artwork and the community into a courthouse space. This art also rotates on a regular basis.

We heard from key informants that in many locations there is “nothing pleasant” about the courthouse and there is “nothing to counter how stressful the court process is.”¹⁴⁹ One key informant said:

*The courthouse is surrounded by cement — a parking lot and the old bus depot. There is ... a covered walkway to the front doors [that] is a spot for homeless people to gather when the courthouse is closed. There is often a lot of garbage on the ground, including drug paraphernalia, near the front doors. A few trees planted nearby are the only greenery. Basically, there is nowhere for the court users to go to quickly get a breath of fresh air and to centre themselves.*¹⁵⁰

5. Optimal Temperature

In a few instances we heard about courthouses and courtrooms being an uncomfortable temperature — either too hot or too cold. One advocate described a case where the victim was testifying, and the courtroom was so cold that she was shaking. While often overlooked, both temperature and humidity have a direct effect on mood, functioning, and aggression.¹⁵¹ Studies show that temperatures over 26 degrees Celsius are likely to cause decreased concentration and somatic symptoms.¹⁵² Conversely, temperatures between 20 and 25 degrees Celsius, and humidity rates ranging between 30% and 60%, have consistently been associated with optimal functioning and productivity.¹⁵³ It was not a pronounced finding in our research that temperature needed to be regulated, but we recommend that courthouses check their temperature systems regularly to ensure people are not uncomfortable.



Success Stories

Throughout our research we heard of many positive steps that have been taken in BC to improve the safety of survivors of violence in smaller courthouses. Technology advancements, support dogs, sheriffs, and good working relationships in smaller communities were some of the success stories uncovered in our research. Key informants also reported on the positive impacts of kindness.

Technology Advancements: Advantages and Disadvantages

That's the one thing I'll say, as much as the pandemic has caused a lot of grief for people in the legal profession, I feel like it has [also] been kind of handy.¹⁵⁴

Prior to the COVID-19 pandemic, self-represented litigants and lawyers had to physically attend courthouses, with very few exceptions. COVID-19 has been a catalyst for increasing the use of technology in court processes. The use of technology, in turn, may be a key component to increasing safety for survivors of violence going through the court system. One key informant described her reduced physical health problems as a result of being able to attend court by phone instead of in person.

I have irritable bowel syndrome and I would literally be so sick to my stomach, because your brain is kind of connected to your stomach, and I would just be so sick before I had to go into court all the time, in person too, just because of I guess seeing the other person and the stress of it all. Still my stomach, regardless of court being over the phone, always gets knots in but may be not quite as bad.¹⁵⁵

Our informants all agreed that for matters that were not substantive, attending court virtually has significant benefits. Lawyers in smaller communities also spoke of the benefit of technology advancements since COVID that have allowed them to access more professionals virtually, such as mediators and other types of professionals from the Lower Mainland, who were not previously available to them. One mentioned time savings as well.

Video court allows us that opportunity to dial in, make your court appearance, and then you're right back into the regular office day. I find that there is a lot of time savings there and we're able to devote more time to our clients.¹⁵⁶

Furthermore, technology can reduce the costs of attending court. This is especially important for individuals who are facing straitened economic circumstances resulting from the end of their relationship; for those in economic crises, the costs of physically attending court (such as child care, transportation, accommodation, and loss of income) can be incredibly stressful, and video attendance can alleviate much of this expense. Virtual appearances, either by video or telephone conference, also increase safety for people living in small and remote communities who rely on hitchhiking for transportation, which is common in communities without public transportation. For survivors, there is the additional safety of not having to be in close physical proximity to their abuser.

Our research uncovered both positive and negative experiences with the current technology practices. One lawyer who was a key informant in our research described their mixed views of virtual appearances: “I think there’s definitely disadvantages to the way everything has moved to either Teams [collaboration software] or phone. You don’t have the benefit of being able to pass stuff up [to the judge]. If there is information that has come in at the last minute, you’re at a bit of a disadvantage there, but overall, I have actually found that it’s helped my practice and I think that a lot of my clients are in better positions for it.”¹⁵⁷

The main disadvantages key informants identified for virtual appearances were the technology’s inaccessibility for some court users, and that appearing virtually was not always a replacement for being present in court. Lawyers explained that it is harder to represent their client during a virtual appearance, because they do not have the opportunity to have quiet conversations simultaneously with their clients; in a virtual setting compared to appearing in person, it is more difficult to interrupt the court matter for a brief private conversation.

In small communities where working relationships play an integral role in court outcomes, lawyers spoke of losing a sense of connection with other legal system actors.

*It’s great for the fact that I can appear in Burns Lake and then an hour later be in Smithers and then an hour later be in Hazelton if that was what the court schedule looked like, so it’s good in that sense. But I do feel that a lot is lost when you can’t have those hallway conversations with other lawyers or social workers and even just touching base and seeing the people in the registry. You may not think those incidental encounters are important, but when you have those relationships as counsel with the sheriffs and with the registry and stuff like that ... things can get done that might not otherwise work if you didn’t have that relationship.*¹⁵⁸

Here are a few additional disadvantages of virtual appearances that we heard about in our interviews:

- People may not feel that the process is as real for them. People may not see it as important.
- Lawyers felt that it is impossible or more difficult to see someone’s expression and emotions, which affects their advocacy.

- Some court users do not have an internet connection, cellphone service, or a cellphone tablet or computer, limiting their ability to call in remotely.
- Some survivors would have preferred to attend court in person and attending virtually did not increase their safety.
- Some people felt they were at a disadvantage when they appeared virtually when the opposing party was present in person.

Court users also described being uncertain of the expectations and protocols for attending court virtually. For example, people described not knowing what to do if they had a question or needed to take a break while waiting for their matter. People also expressed that it was very uncomfortable appearing by phone because they could not see who else was in the virtual courtroom, and especially if their matter was called at the beginning of the list.

RECOMMENDATIONS

A hybrid model, allowing both in-person and virtual court appearances, may meet the needs of the widest variety of court users.

*I think that the virtual attendance is a really good option going forward. I'd like to see it as an option rather than a requirement.*¹⁵⁹

Utilizing a hybrid model is one of three recommendations we propose to address the challenges presented by technology advancements.

1. Hybrid Model

Overall, we recommend that court appearances be available in a hybrid model, with a choice between in-person and virtual options being offered whenever practical. People should be provided the choice of how they would like to attend court.

We note that some survivors have been subjected to coercive and controlling behaviours that limited their agency over a long period of time. Accordingly, a key tenet of trauma-informed practice is supporting people by providing choices about how to proceed in stressful or unsafe situations.



“It’s great for the fact that I can appear in Burns Lake and then an hour later be in Smithers and then an hour later be in Hazelton if that was what the court schedule looked like, so it’s good in that sense. But I do feel that a lot is lost when you can’t have those hallway conversations with other lawyers or social workers and even just touching base and seeing the people in the registry.”

2. Clear Communication to Court Users

Court users need to be given information about all of their options for appearing in court, and whether or not they have a choice about how they want to appear in court. Whether people attend court virtually or in person, they need to be informed about what is expected of them, for uncertainty about what will happen at court exacerbates an already stressful situation. It is worth noting that people attending court virtually have even fewer options for having questions answered. They typically are not physically present with their lawyer, if they have one, and they are not able to look to other court staff or other court users for information.

We recommend providing court users with information in advance of court—in writing as well as in the virtual “waiting room” prior to the court hearing. While the court at present does provide some written information, such as how to connect virtually, the current document does not explain what to expect during a virtual court appearance. We also recommend that a court clerk or other staff member give a brief overview to everyone during the 15 minutes before court starts to outline what is expected of everyone in the virtual courtroom. They could address questions such as the following:

- How long is it anticipated that court users may need to wait?
- What should they do if they need to step away from their phone or computer briefly?
- Who should they let know if they are experiencing a technical issue?
- Who may they be able to contact if they have a question after today’s hearing (their lawyer, duty counsel, the court registry)?
- Can they leave when their appearance is over or is it required for them to stay until the end of court?

Given that there is wide variation in access to reliable high-speed internet, particularly in remote regions of the province, some people may not be able to appear by video. Court users should be told that they are able to appear by phone or turn off their camera if necessary to improve the connection, depending on the requirements of the particular appearance.

3. Virtual Spaces in Courthouses

We recommend that courts designate a separate room inside or near the courthouse with the technology to allow for virtual appearances in cases of family violence. This would provide survivors who do not have their own technology with equal access to virtual hearings, in a space where they are physically separated from their abuser. We recognize that one of the biggest challenges in smaller courthouses is a lack of space. While all BC courthouses may not be able to immediately create this alternative, we hope that courts can consider what would make this recommendation possible to increase safety for survivors of violence.

Support Dogs

I brought in a service dog for one of my trials for a very vulnerable victim. The client had ... a condition where you're unable to speak to lots of people, so we were all very concerned about whether she was going to be able to testify at all ... but the dog curled up at her feet and she had one hand on his head, and she totally spoke and testified. It was a week-long trial and that went really awesome, everyone loved that dog. Even, during a break, the judge came into the hallway and asked to pose with the dog for a picture.¹⁶⁰

Research shows that some survivors of violence may have a more positive experience in a courthouse if they have access to a support dog, both outside the courtroom and inside the courtroom.¹⁶¹ The presence of specialized support dogs at the courthouse provides comfort to witnesses, which in turn allows them to feel calmer and provide better testimony. There is scientific evidence for the physical and mental calming benefits of properly trained court facility dogs.¹⁶² Trauma victims feel more in control in the presence of a therapy dog. Petting a dog releases endorphins, including oxytocin, a hormone that enhances trust and cooperation. There is also a measured reduction in physiological stress responses, such as elevated heart rate and blood pressure, when in the presence of a calm dog.¹⁶³ Trained support dogs have a significant impact on the degree of anxiety experienced by children and vulnerable witnesses.¹⁶⁴ The acceptance and use of court facility dogs has increased in Canadian courthouses, and in 2015, the Supreme Court of British Columbia noted that service dogs enable witnesses to “effectively communicate the evidence without creating interference or distraction.”¹⁶⁵

The acceptance and use of court facility dogs has increased in Canadian courthouses, and in 2015, the Supreme Court of British Columbia noted that service dogs enable witnesses to “effectively communicate the evidence without creating interference or distraction.”

Programs such as Justice Facility Dogs Canada accredit dogs and provide information on the best international practices, policies, and procedures.¹⁶⁶ To reduce costs, courts could partner with local animal support organizations to visit with dogs on particularly difficult court dates, following the increasingly common practice of having dogs attend universities during stressful examination periods.¹⁶⁷

Sheriffs

*The sheriffs really support me. If I'm feeling like my clients are insecure walking in the hallways, I can ask the sheriffs to accompany us and they always will do that.*¹⁶⁸

As we reported in our past research, many court users have very positive experiences with sheriffs, and people report feeling safer after being supported by sheriffs. The key informants in our research echoed this finding and shared more examples of how sheriffs have assisted them or their clients in the past. One woman described a sheriff intervening one day at court in a way that increased her safety without her expressly requesting it. She stated that a few times one of the sheriffs who had spent a lot of time observing her matters in court took her out the alternative exit at the other end of the courthouse because he could see how angry the opposing party was in the courtroom. Below are comments from key informants in our research:

*They would come in and always just usually stand a lot in our room when we were in our hearings and they just kind of keep an eye on the anger levels in the room, which was nice, but his comments and stuff even through the trial was really hard, but the hallway was really – the way you go in there, you all go in and out the same doors, so it's really hard to be separate and not run into them because you're starting your hearing at the same time. So how do you not be in the same area beforehand?*¹⁶⁹

One advocate explained that she shares with people how a sheriff can assist them. She said, “I tell them that the sheriff is there to help protect them and that is a part of their job to make sure they don't get attacked in the courtroom or out in the hall and with verbal stuff, they are going to intervene on that. So I tell people that and that seems to be a relief.”¹⁷⁰

To enhance the work sheriffs are already doing, we recommend that there is clearly available information about the role of sheriffs and how they can assist court users. One lawyer in our survey also recommended a clearer way for court users to speak with sheriffs about ways they may be able to get help.



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Have an option for victims to “check in” with a sheriff and advise of their concerns and that they wish to be kept separate from the opposing party while awaiting their matter and following the conclusion of their matter. Opportunities for victims to be escorted out of the courthouse if they are alone would decrease the risk of any abuse or attack after a hearing that may be unfavourable to the opposing party.¹⁷¹

Good Working Relationships in Small Communities

Despite the numerous challenges that courthouses in smaller communities face, small communities also “foster ... strong, responsive services from within the community.”¹⁷² Our research featured numerous positive comments about the strong working relationships people in small communities had with other legal professionals and courthouse staff and how it was positive to know everyone on a first-name basis. As one key informant explained:

Our relationships are very special in a small town. We know each other. I know everyone who works in the registry, I know all the Crown counsel and the clerks and sheriffs, so we work together.¹⁷³

Nelson, BC Courthouse PHOTO GOOGLE MAPS



Individuals Who Show Kindness and Prioritize Safety



“I found that the court clerks that are in the courtroom were very nice and even beforehand they just try to make it lighter for everybody. That was the one thing that I’d say was very positive, is the clerks in the courtroom.”

We heard about various positive encounters court users had with lawyers and courthouse staff who showed them kindness and prioritized their safety. It is clear that people with an understanding of family violence are in a better position to provide positive responses to people who are at risk. One key informant who had been through years of family court proceedings with her abusive ex-partner talked about the kindness of the court clerks.

The one thing I found was that the court clerks were very nice in the courthouse ... the ones in the actual courtroom I found them very kind ... like when I didn't know to stand or something they just give you, like, not really a nod, they just like "You need to stand up," kind of help you that way a little bit, and sit when you're supposed to when the judge is coming in and different things. I found that the court clerks that are in the courtroom were very nice and even beforehand they just try to make it lighter for everybody. That was the one thing that I'd say was very positive, is the clerks in the courtroom.¹⁷⁴



Conclusion

I try not to really talk about it unless I have to, and I want to share my story with you guys too. If I can help any other person going through this, then by all means I would love to do that. I just know from my experience it was not good and, in the end, I got what I wanted to a certain degree, but the whole situation was just not good. At times I felt like I was the criminal [because I was trying to access the family courts].¹⁷⁵

This report has discussed some of the challenges faced by survivors who need to access courthouses in smaller communities in BC. These challenges are especially important to address given the higher incidences of violence in smaller communities and the more significant barriers people face. Research shows that attending court can have detrimental impacts on people's health. This is particularly the case for people who have PTSD, given the uncomfortable environments of courthouses.

We identified a number of key challenges in courthouses in smaller communities in BC through interviews with 25 key informants. The lack of space in courthouses in smaller communities is one of the most universal challenges we identified. Survivors of violence need to have options available to them to avoid being in close physical proximity with their abuser. We have offered six recommendations to reduce the amount of time survivors have to be physically present with their abuser in the courthouse, including paging systems, safe interview rooms and separate waiting areas, safe rooms for trials and hearings, shared space in courthouse libraries, parking lot trailers, and implementing ways for parties to be separate in court.

We also describe the challenges that survivors may face in smaller courthouses where they have to enter and exit the same door as their abuser. We recommend implementing two entrance/exits that are monitored in courthouses as well as a "safe walk" program.

Further, it creates stress for all court users if they do not know where to go or what to expect when they arrive in court. We recommend the implementation of courthouse navigators or "court concierges": someone who can greet people when they arrive, tell them which way to go and what they may expect, and answer any information questions. We also recommend increased funding for organizations that provide court support for family law matters. Ideally, the role of McKenzie friends, advocates, and support workers could be expanded to assist the people they are working

with in attending case conferences and applying for protection orders. Finally, clear signage is needed in courthouses to help people find their way.

The scheduling of court in smaller communities poses significant access-to-justice challenges. There is significant delay in smaller communities and unique challenges that the assize system also creates. Although we have not completed a thorough analysis of the reasons for delay, many of which are systemic, we recommend that courthouses and courthouse staff continue to search for ways to streamline processes and centre court users. Related to this is the challenge of transportation to and from court. Many communities have no public transportation, and the very nature of courthouses in smaller communities is that they frequently serve a significant region. Therefore, many people face safety risks in getting to court, particularly if they have a low income and/or

do not own a vehicle and are reliant on hitchhiking. We recommend that an online registry accessible to everyone be made available and designed with self-represented court users in mind.

We identified a number of key challenges in courthouses in smaller communities in BC through interviews with 25 key informants. The lack of space in courthouses in smaller communities is one of the most universal challenges we identified.

For survivors of violence, attending court is made more difficult because there are no courthouses in BC that provide child care. This is an issue that disproportionately impacts women, and we recommend accessible child care be implemented in courthouses across BC.

We heard from key informants that there is very little access to food and water in courthouses, and while it is often available nearby at stores or gas stations, self-represented people may not be able to gauge when and if they are able to leave the courthouse to get something to eat or drink; these options may not be available at all to people with mobility limitations. We have recommended various ways—from space for cultural practices and/or prayer to better lighting to temperature monitoring—to enhance court environments to reduce stress wherever possible.

Finally, there are positives aspects of courthouses and court processes confirmed by our research: things that are already working well that we hope can be expanded. The technology advancements since the COVID-19 pandemic have allowed people to avoid being with their abuser and saved them some of the burdens and costs of attending court in person. We have recommended a hybrid model that includes in-person and virtual court appearances, which provides court users with more choices about how to stay safe. Both in-person and virtual court appearances should be accompanied by clear communication to court users, with supports offered to survivors where possible. Support dogs were found to offer comfort and reduce stress to survivors when they were

“It is heartbreaking to see people in such low places in their life and not to be seen or heard and to make sure we’re still sort of taking care of each other and be compassionate.”



PHOTO MELODY CHARLIE

able to testify with them. As highlighted in our past research, sheriffs are repeatedly identified as people who increase safety and help survivors feel more comfortable in court. Additionally, many of our key informants report good working relationships among lawyers, courthouse staff, and sheriffs, because of the familiarity and close connections that form in small communities.

While the focus of our research was on the challenges survivors face when accessing the legal system, we also heard positive accounts about the people in courthouses who showed kindness and understood the safety dynamics present during court. One key informant described their work in supporting clients and exemplifies the compassionate approach court users spoke of:

I think that the idea of a person who is battling housing issues, not always having food, maybe they are tired because they were up all night, we are humans and there is a human side to people having to come to court and making sure that we still sort of take care of each other and recognize that... It is heartbreaking to see people in such low places in their life and not to be seen or heard and to make sure we’re still sort of taking care of each other and be compassionate. I don’t know, that’s all I can say: have compassion, have understanding, and education of why and how we are here to help.¹⁷⁶

Through its 25 recommendations and several success stories, we hope this report contributes to improving the experiences of survivors accessing court, wherever they are in BC. 🐦

Appendix: Client Satisfaction Comment Card

Source: Recreated from the Supreme Court of Canada Client Satisfaction Comment Card that is sent by the Supreme Court Registry to lawyers, self-represented litigants, agents, et al. for their feedback after a hearing.

1. Which of the following best describes your role in the case(s) you have brought forward to the Supreme Court of Canada?

- Counsel
- Self-represented litigant
- Agent

2. How many times have you been involved in a case before the Supreme Court of Canada?

- 1-2 Times
- 3-5 Times
- More than 5 times

3. The Registry Branch offers a range of services accessible through different channels. Which of the following channels did you use to access the Registry services? (check all that apply)

- In-person assistance
- Telephone inquiry
- Fax
- Mail
- Email
- Courier

4. Based on your experiences with the Registry Branch, please rate your level of satisfaction with the following statements (on a scale of 1-5, where 5 = very satisfied and 1 = strongly dissatisfied)

	Strongly Dissatisfied	Dissatisfied	Neutral	Satisfied	Very Satisfied
Registry services were accessible					
Staff members were available to respond to my inquiries/ provide their services					
I was served in a professional manner					
Staff members who served me were knowledgeable					
Staff members were responsive to my needs in a timely manner					
Staff went the extra mile to make sure I received what I needed					
Staff were able to offer their services in my preferred official language					
Overall, I am satisfied with the services I received					

5. What, if any, would you identify as the key strengths of Registry services?
6. What, if any, improvements could the Registry Branch make to improve access and the services they provide to their clients?

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MELODY CHARLIE Born and raised in Ahousat and proudly calling Nuu-chah-nulth home, I have been capturing light beams and beings since the early 1990s. Having worked most of my life in healing, I am naturally drawn to the strengths and medicines of Indigenous beings across Turtle Island. Culture, songs, ceremony, and learning my language offered some much-needed healing after the loss of my children's father. Losing him became a journey of finding me. Finding me led to the strengths and stories of First Peoples, through the lens, straight to the heart and back to our roots. melodycharlie.com

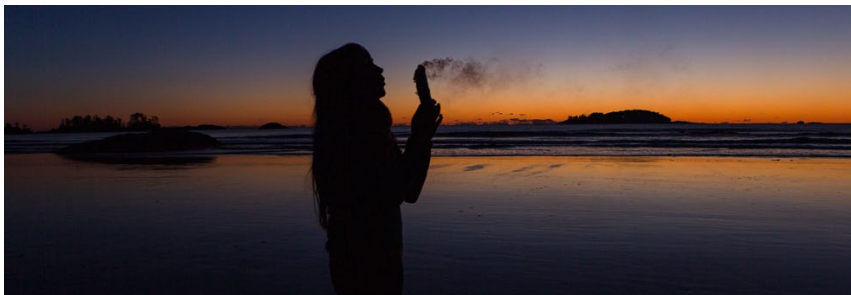




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Rise Women's Legal Centre is a community legal centre striving to create accessible legal services that are responsive to the unique needs of self-identifying women, particularly those who are survivors of violence, abuse, and unequal power dynamics.

For more information about Rise, visit womenslegalcentre.ca

Rise Women's Legal Centre respectfully acknowledges that our work takes place on the traditional, ancestral, and unceded homelands of the *Skwxwu7mesh* (Squamish), *Tsleil-Waututh* (Burrard), and *xʷməθkʷəy̓əm* (Musqueam) Nations.