

PUBLIC AND MEDIA RELATIONS IN CANADA

Remarks by Jennifer Stairs, Director of Communications, Nova Scotia Judiciary

Canadians live in a society that places a high value on openness in the justice system.

The general rule in Canada is that trials are open to the public and may be reported in full.

By enabling the public to attend court proceedings and allowing access to court documents, our citizens are able to learn about the law firsthand.

But is that enough to enhance their confidence in the legal system? Probably not.

Most people would never think to visit a courthouse or sit in on a trial, unless they have to. Even if they chose to, the proceedings are often complex and difficult to follow without legal training.

Whether we like it or not, the average citizen learns about the legal system primarily through movies, television and news coverage of court proceedings.

In 2012, Chief Justice Beverly McLachlin of the Supreme Court of Canada talked about the power journalists have over the public's perception of the justice system:

"The media, reporting accurately and fairly on legal proceedings and judgments, including criticism, even strong criticism, make an invaluable contribution to public confidence in the judiciary and, thus, to the rule of law itself.

On the other hand, inaccurate, unfair or sensationalized reportage ... has the potential to distort the public's view of the justice system and undermine public confidence in the rule of law."¹

Every negative news story and every inaccurate comment erodes public confidence. And once it's gone, it's difficult to gain it back.

Citizens need to see that the courts and the justice system operate openly and fairly for everyone. That will take time, and a willingness to work with journalists.

I actually started my career in the media. I worked in both print and broadcast journalism, mostly covering the Nova Scotia Supreme Court.

I chose journalism because I felt it delivers an important public service, and I still feel that way. Journalists are the eyes and ears for the public.

As a result, the Supreme Court of Canada has recognized, on numerous occasions, that the media, as representatives of the general public, must be given special consideration when applying certain rules and policies of the Courts.

In Canada, court officials and staff working within the justice system have a responsibility to assist the public, including the media, in obtaining access to the court cases and documents, to which they are entitled by law. This enables accurate reporting of court proceedings.

¹ Remarks of the Right Honourable Beverley McLachlin, P.C., Chief Justice of Canada, Carleton University, Ottawa, Ontario, 2012, <http://www.scc-csc.ca/court-cour/judges-juges/spe-dis/bm-2012-01-31-eng.aspx>

Members of the Judiciary have an important role to play too.

While ensuring openness, Judges have a responsibility to protect the integrity of the judicial process. As such, they have common law and statutory authority to set the appropriate balance between the right to a fair trial and the right of freedom of the press.

The approach to media and public relations varies across Canada.

Some provinces, like British Columbia, Saskatchewan and just recently Quebec, have dedicated full-time communications people — what you might refer to as information officers or press secretaries — who regularly work with reporters, and proactively communicate with the public through social media, court websites and public education programs.

Their backgrounds vary too, from trained communicators to legal counsel and even retired Judges.

Just like here, many Canadian courts struggle with a lack of funding and other resources for communications. As a result, most jurisdictions designate a handful of people responsible for other duties within the courts to respond to media inquiries and access issues on a part-time basis.

It's better than nothing, but makes it hard to build trusted relationships with reporters.

To bridge the gap, some provinces are increasing direct access to Judges.

For example, Newfoundland and Labrador has just established a Media Liaison Committee tasked with developing clearer ties with reporters. Nova Scotia has a similar committee, which I'll talk about later.

In Prince Edward Island, the courts hold an annual luncheon with journalists, the Chief Justices and other Judges who wish to attend. These meetings are educational for both the Judiciary and the media, and lessens the chance of an issue arising in the future.

Suffice to say, most jurisdictions are making an effort to better communicate with the media, but so far none have taken an approach quite like the one we've adopted in Nova Scotia.

Our province is relatively unique in that it is the only place in Canada to have an Executive Office that supports the entire Judiciary.

Created in 2002, the Executive Office has a broad range of responsibilities, all guided by several larger goals:

- ...enhance and defend the independence of the Judiciary;
- ...support and improve the proper administration of justice;
- ...provide continuing education about the Courts and the Judiciary;
- ...work with government at the policy level, where appropriate;

...and finally, communicate with the media and the public.

The Executive Office evolved out of an idea first put into practice by former Chief Justice Lorne Clarke more than 20 years ago. Recognizing that many of the issues faced by one Court are shared by the other levels and types of Courts, he brought all the Chief Justices and Judges together as a committee that met on a regular basis.

Now, the Executive Office is made up of five contracted employees who serve as law clerks and five full-time staff, including a dedicated Communications Director — myself, as of this spring.

The Communications Director wears many hats.

My primary responsibility is to act as a liaison. I do this by ensuring access to the Courts and court documents; I manage our award-winning Courts website, developed by my predecessor, John Piccolo, as well as the Courts' various Twitter accounts; and I'm also responsible for facilitating the live web broadcast of certain court proceedings.

Others in the Executive Office arrange educational opportunities and resources for students and teachers, including providing scripts for mock trials and organizing class trips to courthouses.

Just last month I led a tour for a group of students from the local journalism school. Many of these young people had never set foot in a courthouse and left feeling more confident at the prospect of one day having to cover a trial or search for court files.

A quick piece of advice — don't underestimate these sorts of opportunities.

Among these young people are your future journalists, lawyers and politicians, and this is a chance to help shape how they view the justice system for the rest of their lives. Changing the perception of the Judiciary and the Courts won't happen overnight — consider these sorts of educational opportunities a long-term investment.

I mentioned earlier the practice of webcasting.

In North America, the attitude toward cameras in the courtroom varies depending on where you are and who you're speaking with.

Media cameras are allowed in many courtrooms across the United States, but the situation is quite different in Canada. There have been times when the Courts in other provinces have permitted a single camera for high-profile criminal matters. This has not yet happened in Nova Scotia.

In the meantime, webcasting is a popular alternative and an important tool to connect in real-time with the public.

The Nova Scotia Court of Appeal is believed to be the site of the first ever court-controlled live webcast of a court proceeding in Canada, in February 2009. The following year, Nova Scotia webcast for the first time from the Supreme Court.

We've live-streamed an entire two-day national journalism conference the Nova Scotia Judiciary hosted in 2008. The webcast went out in both official languages and successfully allowed journalists, lawyers, judges, students and others who couldn't attend to tune in to the discussions.

We're planning a second such conference in the fall of 2017 that we also plan to broadcast.

But by far our most ambitious webcast was in 2009 — the fatality inquiry into a mentally ill prisoner who died in police custody. Four cameras captured 14 weeks of proceedings and broadcast them in their entirety for the public. Nothing like it has been done since in Nova Scotia.

Another tool the Canadian Courts are using more and more is social media, specifically Twitter.

Again, Nova Scotia has emerged as a leader in this increasingly popular form of communication.

Our Courts were the first in Canada to tweet, replacing a similar but outdated technology called RSS feeds.

The Nova Scotia Courts now have six Twitter accounts — one main account that shares the news of the Courts and information on how to navigate the legal system; an account that shares notices to the legal profession; and an account for each of the three levels of Courts and the Small Claims Court to share written decisions from each.

I should mention those decisions are also self-published and posted on a searchable database on our Courts website, and then emailed directly to journalists who sign up.

The media can also register to receive notifications of publication ban applications and electronic dockets for the Supreme Court and the Court of Appeal. These documents are also posted online and hard copies are displayed inside the courthouses. Only Family Court dockets are withheld from the public, as per provincial legislation.

All of these steps are to increase public access and build stronger relationships with the media.

Coming back to Twitter, our main account now has more than 1,000 followers and that audience continues to grow every day.

For those who aren't familiar with the technology, a Twitter follower is just what it sounds like — a person who has agreed to receive and follow your tweets. If you add someone to the list of people you read, you "follow" them. If they do the same to you, they become your "followers". The more followers you have, the wider your reach.

Our main Twitter account follows more than 200 other accounts, including journalists from across the country, provincial and national political leaders, the Nova Scotia Department of Justice, Justice Canada, the Nova Scotia Bar, the Law School and many other community and legal groups.

This helps me in two ways: to scan and share news of interest to the legal community, and to monitor news coverage and commentary on the Nova Scotia Courts.

The latter is particularly important, since Nova Scotia has allowed tweeting from inside most courthouses and courtrooms since 2014.

There are exceptions for Mental Health Court, Family Court and Youth Court, and all tweets are subject to publication bans, but otherwise the public, including journalists, can share details on a court proceeding with the press of a button.

To help enforce proper usage, the Courts, in consultation with members of the media, have developed comprehensive policies on the use of electronic devices and technology in the courtrooms.

These policies are posted on the Media Page of the Courts website and outside courtrooms. More recently, court staff have started handing out hard copies to anyone who asks to use the guest Wi-Fi services that are available in most courthouses.

The results thus far have been overwhelmingly positive.

The journalists are able to share information much faster, and on a platform that reaches people immediately. Many reporters have told us that tweeting is also handy when preparing their full stories. Their Twitter feeds essentially become their notes from the trial.

Judges and lawyers have found Twitter useful too.

The technology allows them to follow a case from their home or office — and in rare instances where there is a problem, they can flag that with me early on so it's corrected before publication in broader media coverage.

Of course, just like online journalism, social media platforms invite public comments that become difficult to moderate. Members of the Judiciary are further limited by judicial independence, which as you know requires Judges to be unbiased and impartial.

As a representative of the Judiciary, I too have to be careful to remain independent. That's where it helps to have relationships with others in the legal system who can speak out on behalf of the Judiciary.

In Nova Scotia, I have three primary groups I keep in touch with to help fight my battles and promote the positive work of the Courts.

Those groups are the Nova Scotia Branch of the Canadian Bar Association, the Nova Scotia Barristers' Society, and the Schulich School of Law.

Beyond that, depending on the situation, I can also look to the Public Prosecution Service, Nova Scotia Legal Aid, the provincial Department of Justice, local law enforcement or the Legal Information Society of Nova Scotia.

All of these agencies have representatives on a committee called the Justice Communications Group, which I chair. We meet monthly to discuss issues of mutual concern, as well as opportunities for collaboration.

The meetings also provide a forum to raise and resolve differences among individual member organizations, related to media and public relations.

The Group has existed in one form or another for almost a decade. Although I'm new to table, I've worked with almost everyone before in my previous communications roles with the provincial and municipal governments.

It's a great example of breaking down the silos that often form in government and other workplaces, and it's a simple way to enlist the help of others to correct misinformation or address an issue in the public realm.

Another useful group I'm involved with is the Media Liaison Committee, which I mentioned earlier.

This Committee is composed of members of the media and a Judge from each of the five Courts in Nova Scotia. It hasn't always been the case but right now there is also a lawyer who represents one of the media outlets.

We meet as needed to deal with issues of media and public access. In fact, it was the Media Liaison Committee that drafted the policies on the use of electronic devices and technology in the Courts.

The group also developed the more comprehensive Guidelines for Media and Public Access to the Courts, a 41-page document that outlines decorum in the courtroom, access to court documents and records, restrictions on access, publication bans, designated media areas at the courthouses, and much more.

An electronic version of the Guidelines is posted on the Media Page of the Courts website and hard copies were distributed to court staff across the province to help them understand their role in facilitating access for the public and the media.

The original Guidelines were developed in 2008. There have been revisions since and we hope post the most recent version by the end of this year.

None of this would be possible without the cooperation of the media.

It's essential that journalists have a formal process to share their problems and ideally get them fixed. And it's not enough to simply have a process — the media needs to know what it is and they need to be involved.

Does that mean you'll be able to resolve every issue? Absolutely not.

But it will certainly help to build those trusted relationships I talked about earlier.

To close, whether it's for the public or the media, you can see that access to justice is an important foundation in the Canadian legal system, just like judicial independence and accountability.

The open court concept and the willingness of those in the justice system, including Judges, to work with the media is key to more accurate reporting, and ultimately a better understanding of and higher confidence in how the Courts operate in Canada.

Thank you.