Journal of
COMMUNITY SAFETY & WELL-BEING

"Client health is part of my job": A qualitative study of attitudes and experiences of legal personnel in British Columbia's Downtown Community Court

Kristi Heather Kenyon*, Regiane Garcia*, Ada Chukwudozie*

ABSTRACT

Established in Vancouver in 2008, British Columbia's Downtown Community Court (DCC) is Canada's first community court. Set up specifically to address offences stemming from mental illness, substance use and poverty, the court brings together justice, health and social services, offering a tailored response to the cycle of reoffending and public safety concerns in the city's core. Focusing on the perspectives of legal actors, we examine the court as an unexpected site of health intervention. This qualitative interview-based study explores how judges, crown counsels and defence lawyers perceive their role and that of the court in relation to the health and wellbeing of court clients. Our findings show that legal personnel typically see health as a central part of the court's intervention and similarly view client health as a critical part of their own jobs. Respondents describe the court's ability to engage with those facing complex health and legal issues as unique, attributing it to its legal professionals' holistic view of their roles, the court's strategic community location and its unusual structure, which facilitates information sharing and attracts personnel invested in its mandate. The article identifies three primary needs: 1) enhanced education on client health for legal professionals, 2) nuanced metrics to evaluate the court's health impacts and, 3) longitudinal client-centred research to measure the DCC's long-term effects on health.

Key Words Criminal justice system; problem-solving courts; therapeutic courts; community courts; Downtown Community Court; therapeutic justice; health; repeat offending.

INTRODUCTION

In 2008, British Columbia created the Downtown Community Court (DCC) in Vancouver. The DCC is an innovative court intended to address repeat offending that is rooted in mental illness, substance use, homelessness and poverty. Housing justice, health and social service agencies in one location, the DCC is able to coordinate individualized intervention plans to address the complex health and social circumstances that lead to chronic reoffending. Consequently, the DCC contributes to improved health of those who come before the DCC ("clients") alongside ameliorations in community safety.

The DCC holds jurisdiction over criminal cases in Vancouver's Downtown Eastside (DTES). When someone is arrested in the area, in lieu of undergoing a traditional trial they can opt to plead guilty, come before a DCC judge, and engage with the DCC team. The court tailors sentences, ranging from community service to incarceration, based on the severity of the offence, the individual's risk of reoffending, and individual circumstances. Sentences are paired with personalized plans addressing each client's reoffending risk and specific health and social needs. Plans may include health treatment strategies, links to cultural services, addiction resources, or referrals for housing and income support. For serious cases involving mental illness or severe drug use, the DCC's case management team oversees detailed intervention and monitoring.

Although health and wellbeing are central to the court's history and design, scant attention has been paid to the court's work in this area. Focusing on the perspectives of legal

Correspondence to: Kristi Heather Kenyon, University of Winnipeg, 515 Portage Ave., Winnipeg, MB R3B 2E9, Canada. **E-mail:** kr.kenyon@uwinnipeg.ca

To cite: Kenyon, K. H., Garcia, R., & Chukwudozie, A. (2024). "Client health is part of my job": A qualitative study of attitudes and experiences of legal personnel in British Columbia's Downtown Community Court. *Journal of Community Safety and Well-Being*, 9(2), 109–113. https://doi.org/10.35502/jcswb.372

SGPUBLISHING Published by **SG Publishing Inc.** CSKA Official publication of the **Community Safety Knowledge Alliance**.

actors, we examine the court as an unexpected site of health intervention viewing legal personnel as health advocates. Drawing on interviews with a representative sample of DCC judges, crown counsels and defence counsels, we offer insight into how legal actors understand their role and that of the court with respect to client health and wellbeing. We explore attitudes, actions and practices of legal actors in relation to client health to gain a better understanding of the formal, informal and attitudinal structures that support the court's interventions on client health. Our study indicates a much broader perceived role and scope of intervention than that suggested by either existing literature or legal training. Legal personnel typically see improving health as a central part of the court's work and view it as a critical part of their own jobs. Respondents attribute the court's ability to engage with those facing complex health and legal issues to the court's strategic community location and to the court's unusual structure, which facilitates information sharing and attracts personnel who are particularly invested in its mandate. The article identifies three primary needs: 1) enhanced education on client health for legal professionals, 2) nuanced metrics to evaluate the court's health impacts and, 3) longitudinal client-centred research to measure the DCC's long-term effects on health.

METHODOLOGY

Semi-structured qualitative interviews were conducted via Zoom or telephone with a representative sample of current and past DCC legal professionals (five defence counsels, four crown counsels, two judges)[1] between August and November 2020. This methodological approach was most appropriate as we were investigating a new area without a solid existing knowledge base. We consequently sought a method that would enable us to explore personal opinions and experiences in detail with the flexibility to follow up, switch the question sequence if needed and, probe for additional detail (Jamshed, 2014). Our open-ended interview questions focused on participants' understanding of their own professional roles within the DCC with respect to client health and wellbeing, and their understanding of the court's role and function in relation to client health and wellbeing. Interviews were audio recorded, manually transcribed verbatim with identifying details removed and checked for accuracy by two team members. Our multi-disciplinary research team engaged in a collaborative data analysis retreat during which we identified emergent themes from the transcripts alongside *a priori* themes from relevant literature (Elliott, 2018). We subsequently applied these thematic codes to the transcripts, using them to sort and categorize data (Gibbs, 2018). Preliminary findings were shared in a draft report and an in-person presentation with court personnel (including DCC staff, judges, crown counsels and defence counsels) in Vancouver in November 2022. At the time, we invited and received feedback on the accuracy and relevance of our results.

[1]In this study, we drew from both current and past DCC legal professionals and did not distinguish between the two to maintain confidentiality. For context, the total current number of legal personnel currently based at the DCC is two judges, two prosecutors and two in-house lawyers. Additionally, any duly licensed criminal lawyer is in theory eligible to represent clients at the DCC.

RESULTS

While formal education or training related to health was rare, respondents largely considered addressing client health to be both part of their job and an important role of the DCC. Judges reported that they constantly considered client health and wellbeing as they carried out their duties. One judge explained that the aim was to "build a plan that restores somebody's personal situation whether that's the health, mental health, dealing with addiction, whatever needs to be addressed." Defence counsels saw one of their primary roles as a go-between, where they helped translate client needs to DCC teams and necessary services. Defence counsels described their roles as "no different" from those in a traditional court, where they would also seek to connect clients to health and wellbeing services, usually in a bid to stay proceedings and minimize jail sentences. However, four of five defence counsels noted that this "connecting" work was easier at the DCC than at the provincial courts due to the DCC's structural set-up and information-sharing culture. Crown counsels listed health and wellbeing as aspects of their professional role. This included, for example, consideration of health and wellbeing at bail and sentencing, as well as provision of information about services and options, and helping connect clients to those resources. Despite the acknowledgement that advancing client health and wellbeing were key components of their role, respondents overwhelmingly also understood their roles within traditional legal definitions and saw the need to frame or justify health and wellbeing within these parameters (i.e., addressing health concerns helps improve community safety and reduce recidivism). One prosecutor explained:

> It's clear that if a person is stabilized in terms of housing, in terms of jurisdiction, in terms of mental health, in terms of the physical health, and if health is linked to curbing re-offending, then obviously as a prosecutor, it was in the public's interest for me to consider ensuring that that person was supported in a way that their health was taken care.

When discussing what factors enabled the DCC to address client health and wellbeing, respondents emphasized the DCC's geographic location, co-located services, courtroom design and inter-professional relationships. A respondent noted, "the primary difference is the neighborhood that [the DCC is] situated in, and that the court possibly uniquely or unprecedently recognized that the neighborhood it was in required a different type of service." Being in the DTES meant that clients were being served in a familiar part of town, and the court's physical contextualization in the neighbourhood meant that all those working in the court were immersed in the DTES and regularly exposed to and familiar with the neighbourhood's characteristics, services and challenges. The court's location also facilitated access to and collaboration with relevant social organizations that DCC clients are familiar with, which in turn facilitates health and wellbeing interventions.

Co-located services were described as facilitating easy access to information, referrals, increased understanding of and respect for each other's roles, trust and relationship

building. One respondent explained, "in traditional criminal court, we don't have as many tools as Downtown Community Court does because of the wraparound services that actually exist in Downtown Community Court." The comprehensiveness of the wraparound services available at the DCC was noted by participants from all response groups. One respondent explained:

> You have a member of the Vancouver Police department that is permanently assigned. You have forensics workers; sometimes nurses, sometimes social workers, some from forensics BC. You also have Vancouver probation or community corrections which is also on-site and present … these people are permanently assigned to that court. Now these agencies all exist at [the traditional court], but they're not co-located … if you wanted an update from a bail supervisor, or from forensics on someone, you would have to go through a number of different channels to be able to get that information. So, it's not at your fingertips.

The co-location of these services also promoted more efficient and effective case resolution. Several respondents noted that co-location allowed an opportunity for things to be done faster than in a traditional court, with one person explaining, "because we have all those services that are right on site with us, there is an immediacy that you never get in the traditional court" whereas "in the traditional court, it usually takes about 4 weeks to get that kind of a report and quite often, people are kept in custody [during that time]." Although respondents often contrasted the DCC with a "traditional court," the legal weight of being a court was also seen to have some positive health implications. As a provincial court, the DCC can, for example, order clients to participate in case management. Although the court cannot enforce treatment, if a client refuses to participate, they could be reassigned to other probation officers and miss access to programs that clients find helpful.

The physical courtroom design was also noted as enabling the DCC to better address client health and wellbeing. In the DCC, respondents noted that the bench is lower, and the client and judge are seated closer together.

> In most courtrooms, people are probably a good 15 or more feet away from the accused, maybe even more, depending on where they are sitting in a courtroom. In our program, […] people actually walked up to the bench to sign their documents. So, the judge was within three and a half feet of the accused. That is a very different perspective, and our first judge articulated out loud, he was so shocked to see the actual state of our clients up close … the judges were far more concerned on a practical level… They were more aware of health conditions, so they took more interest in the health conditions.

This arrangement not only, as explained earlier, enabled a more precise assessment of client health but also was described as more conducive to relational and trusting interactions both among court staff and with clients.

Respondents universally emphasized the importance of relationships within the court as critical in enabling them to consider health and wellbeing in their work. Respondents described their positions within the network of professions present at the DCC, often emphasizing facilitation, information sharing, resource linking and explanation. One defence counsel noted, "if you don't get along with the prosecutors anywhere, but particularly in a place like community court, you're not going to be able to function, you're not going to be able to get things done." Physical co-location was conducive to an enriched teamwork and problem-solving approach to clients' unique needs – as one respondent noted, there is no "not my problem mindset." Rather, people go to great lengths to find solutions collaboratively. Another respondent explained how the DCC "has brought me a better understanding of what other players in the system are doing, and why they are doing it." Respondents reflected a strong level of respect not only within but also between professions – they acknowledged the importance of different actors (probation officers, doctors, etc.) and were willing to defer to respective expertise and express the unique positions and abilities of each. Strong relationships facilitated the transfer and sharing of information, which respondents universally acknowledged as critical in meaningfully considering and addressing factors related to health and wellbeing, particularly in the relatively frequent instances where clients were not able to fully articulate this themselves. Judges reflected on information sharing leading to greater engagement with the clients; defence counsels focused on the benefit of collaboration to the clients; and crown counsels primarily talked about being able to make better-informed decisions as the information-sharing process at the DCC revealed much more about a client than the information-sharing process in traditional courts. A crown counsel described the importance of support and a shared approach, noting "I think in traditional courts, it's harder because you don't have that collaboration. You don't have that information that helps you make those kinds of really informed decisions."

Recruitment and acculturation also came through as key factors when looking at personnel within the DCC – people do not come to work at the DCC by accident, are not necessarily representative of their professions at large and, often are seeking a different way to work. Many respondents expressed the belief that at the DCC, they had a greater opportunity to "look at the whole picture" and be part of a "positive outcome" by addressing the underlying causes of criminality. A judge noted: "it's a different type of judging, where you do, I think, a lot of listening. I think you have a greater opportunity to engage with the individual in a way in which regular judging does not permit you to do." They described a work environment marked by collective "buy-in" commitment, a shared "philosophy" or "ideology" and a "culture of trust."

A critical question that surfaced repeatedly in interviews is the challenge of measuring and defining success for both the court and its clients. So much hinges on "success," including the continued support and funding for the DCC and its replication and adaptation elsewhere. Respondents predominantly defined success around the notion of "client stabilization" supported by the DCC's health and social support. Success, therefore, is conceived primarily in relation to how well the court can address the root causes of offending

so that clients will have better options and will "not be forced to break into cars to steal things … to get more drugs, driven by the lack of resources to eat."

DISCUSSION

While an emerging body of literature examines law enforcement officers and their role in responding to and addressing health-based calls (Butler & LePard, 2022), research is lacking on legal actors' position in the court addressing client health and wellbeing. Similarly, existing literature examining courts' impact on health largely focuses on the role of healthcare professionals in supporting the court participants rather than court processes and structures (Garcia et al., 2019).

Our research sheds light on how legal actors within the DCC understand their role and the role of the court in relation to health and wellbeing. DCC legal personnel take a broad view of their responsibilities, understanding that their role extends to the overall health and wellbeing of clients, considering factors like housing, cultural connection and safety. Despite these insights and regular engagement in support of client health, formal education and training related to health and wellbeing was an exception to the rule among legal actors.

We highlight structural and relational features that the DCC's legal actors view as critical in enabling the court to act to support client wellness. The court's location, wraparound services and courtroom design play a significant role in enhancing its ability to address health needs. Building on, and supported by these structural factors, inter-professional respect and trusting relationships among DCC personnel enable collaborative problem-solving to address client health needs through facilitated information-sharing and expedited processes. Our research builds on the therapeutic jurisprudence literature that indicates that actions such as treating clients with dignity and involving them in decision-making – both of which are actions facilitated by the DCC's structures and relationships – can be key factors in court effectiveness (Goldberg, 2011; Wexler, 2005; Wexler, 2010).

Existing studies on community courts, including the DCC, have focused narrowly on recidivism rates and employ recidivism as a metric of evaluation (Digney, 2022; Somers et al., 2014). Our research suggests that such a metric does not fully capture the court's mandate, activities or impact. The question of evaluation is a complex one. What does it mean for the DCC or for a DCC client to be successful? What is the "realistic ideal," given the complex needs and circumstances of DCC clients? How can this be measured or counted? Can criminal justice adopt a "harm reduction" perspective, acknowledging improvements such as reduced crime rates or severity and safer substance use practices? It is essential to develop a measurement system that recognizes these subtle yet significant changes, providing a more comprehensive view of what "success" looks like for the DCC and its clients. Finally, as a study focused on legal actors, our research does not provide insight into the most arguably critical and vulnerable population – DCC clients, most of whom come before the court repeatedly. There is notably little knowledge about the client experience of the DCC and how they might assess their DCC experience and its impact on their health and wellbeing, including experiences with wraparound services and health support.

CONCLUSION

Our research reveals at least three critical needs. First, if legal actors view client health and wellbeing as part of their role, and routinely act to support client health, education and training support should be offered in this area – both to the current DCC personnel and, ideally, integrated more broadly into legal training. Second, a nuanced metric is needed to assess the DCC's impact, including its efforts to address the often health-related root causes of criminal behaviour. Third, more research is needed to explore the client's perspective of DCC engagement to assess longitudinal impacts on health and wellbeing.

ACKNOWLEDGEMENTS

We gratefully acknowledge the participation of the Downtown Community Court and the financial support of the University of Winnipeg's Major Research Grant Program and the Canadian Foundation for Legal Research. The funding sponsors had no role in the design of the study; in the collection, analysis or interpretation of data; in the writing of the manuscript; and in the decision to publish the results.

FUNDING

This research received funding from the University of Winnipeg's Major Research Grant program and the Canadian Foundation for Legal Research.

CONFLICT OF INTEREST DISCLOSURES

The authors have no conflicts of interest to declare.

AUTHOR AFFILIATIONS

*University of Winnipeg, Global College, Winnipeg, MB, Canada.

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