

# OPEN COURT?

The Canadian justice system is based on the “open court” principle. But, with the exception of the Supreme Court of Canada and the Federal Court, court policies are under provincial jurisdiction, and they vary widely. As this cross-Canada comparison shows, the information available and the ways in which it can and cannot be shared remains open to interpretation.

By Anita Mielewczyk Current as of March 6, 2014

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COURTS	ACCESS TO TRANSCRIPTS, DOCUMENTS AND EXHIBITS	AUDIO-VISUAL ACCESS TO COURT BUILDINGS	ELECTRONIC PUBLIC ACCESS TO COURTROOM
<b>SUPREME COURT OF CANADA (SCC)</b>	Public, including media, can attend in person at the Court in Ottawa and inspect court records. Photocopies may be made at a per page cost.	The SCC provides a live feed of all appeals to the Canadian Parliamentary Press Gallery. The SCC holds copyright over all video recordings; arrangements can be made with CPAC to be given permission for limited use of video recordings of cases.	Audio recorders may be used. Cameras are not permitted. The use of laptops, handheld devices and cellphones is permitted, as long as the sound is turned off.
<b>FEDERAL COURT OF CANADA</b>	All documents are a matter of public record unless a legislative provision or court order prohibits public access. Documents may be viewed or obtained in person or requested by fax; there is a fee for copying.	Members of the media holding valid credentials may audio-record proceedings for note verification purposes only, but not for broadcast. Others (e.g., counsel or members of the public) must seek permission from the presiding judge.	Laptop computers, smartphones and similar devices are generally permitted only for the purposes of note verification or electronic communication, including texting, tweeting and blogging. <b>Federal Court of Appeal:</b> The use of electronic devices in silent or vibration mode is permitted. Broadcasting or sending information electronically from the courtroom to the outside is not permitted.
<b>BRITISH COLUMBIA</b>	<b>EXHIBITS: Supreme Court of British Columbia and Provincial Court:</b> Public access to exhibits in criminal and civil proceedings must always be determined on application to the Court. <b>TRANSCRIPTS: British Columbia Court of Appeal:</b> Anyone entitled to be present in the courtroom for a proceeding is entitled to order and receive the transcript. <b>Supreme Court of British Columbia:</b> The public is not entitled to transcripts of criminal proceedings unless the Court orders access. In civil proceedings, with some exceptions, anyone entitled to be present in Court for the proceeding may have access to the transcript. <b>Provincial Court of British Columbia:</b> Copies of the transcript can be purchased unless restricted by Court order. <b>OTHER DOCUMENTS: Supreme Court of British Columbia:</b> In criminal proceedings, other documents (e.g., bail applications, search warrants) are available under certain conditions. In civil proceedings, the public may access any affidavits and attached exhibits that have been filed with the Court unless a statutory provision, common-law rule or Court order restricts or limits access.	Accredited journalists may record audio for note verification only. <b>British Columbia Court of Appeal:</b> Requests to video-record and/or televise court proceedings should be made to the Chief Justice. <b>Supreme Court of British Columbia and Provincial Court:</b> Cameras are forbidden in court buildings. Formal applications for cameras in courtrooms can be made after consent is obtained from all parties.	<b>British Columbia Court of Appeal:</b> Any person may use an electronic device to transmit or receive text in a discreet manner that does not interfere with the proceedings. <b>British Columbia Supreme Court and Provincial Court:</b> Only accredited journalists and lawyers who are members of the Law Society of British Columbia are permitted to use electronic devices to send or receive text.

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<b>ALBERTA</b>	Anyone may ask to view or copy exhibits, transcripts and other documents in both civil and criminal matters. There are fees for searches and photocopying.	Use of cameras and audio recording devices is prohibited without prior approval, with the exception of accredited members of the media, who are permitted to make audio recordings for note verification purposes only.	Lawyers and accredited media members are permitted to use electronic devices, subject to certain restrictions (e.g., audio recording for note verification purposes only). Members of the public are prohibited from using electronic devices.
<b>SASKATCHEWAN</b>	<b>EXHIBITS:</b> In civil and criminal matters, the presiding judge determines what access to exhibits will be provided; this includes requests to photograph, film, photocopy or otherwise reproduce exhibits. <b>TRANSCRIPTS AND OTHER DOCUMENTS:</b> Access to a transcript, tape or CD will be granted for a fee, with the understanding that the transcript or audio recording must not be published or broadcast in any way.	Media are allowed to audio-record proceedings for note verification purposes only.	Only legal counsel and members of the media who have been accredited by the Court Services Division of the Ministry of Justice may use devices, in silent mode, to receive and transmit information. Accredited media may also send live text-based communication (e.g., tweet) from the courtroom. All of the above is subject to the discretion of the presiding judge.
<b>MANITOBA</b>	All documents or other material (physical or electronic) received or maintained by the Court are accessible and may be viewed; fees may be charged for copies. A Court order banning publication of certain information contained in a court record does not affect access to that Court record. <b>Court of Appeal and Court of Queen's Bench:</b> Electronic access is given to certain Court record information, such as court file number, listing of documents filed and next hearing date.	Cameras are allowed in designated courtrooms, and will be fixed on the judge as they render their judgment. Family court cases, jury trials and witness testimony will not be heard in courtrooms equipped with cameras. Lawyers will continue to have the right to argue against TV cameras, but the assumption is that they are allowed. Media are permitted to have recording equipment in the courtroom for note verification purposes.	Electronic devices are permitted in court facilities and courtrooms. Only members of the legal profession and eligible media may use the devices to transmit and receive data, so long as it does not interfere with or disrupt the proceedings.
<b>ONTARIO</b>	<b>EXHIBITS AND DOCUMENTS:</b> Information and copies of criminal court documents are accessible to the public. If an exhibit in a civil proceeding was attached to an affidavit and filed with the court, it is publicly accessible. <b>TRANSCRIPTS:</b> Access is presumed in all levels of the court for a fee, with cost based on the format requested (i.e., printed copy per page or a copy of the digital recording of a court hearing on CD).	<b>DIGITAL AUDIO RECORDINGS: Ontario Court of Justice and Superior Court:</b> Copies of digital Court recordings of matters heard in open court are available to the media, the public, counsel, litigants and the accused upon request; there is a fee for copying. <b>AUDIO-VISUAL:</b> No photo or video-recording devices are allowed in the courtroom without the approval of the presiding judicial official. Counsel and media are permitted to make audio recordings of the proceedings for note verification purposes only.	Media, counsel, paralegals, law students and clerks, and self-represented parties are permitted to use electronic devices in silent mode. Members of the public are prohibited from using electronic devices in the courtroom unless the presiding judge orders otherwise.
<b>QUEBEC</b>	In civil matters, except when prohibited by law or by a court order, proceedings and judicial records are public and access to records, exhibits and recordings is permitted. In criminal matters, before allowing the reproduction of exhibits, the Court clerk must verify that the court has authorized it. Media in Quebec typically have access to exhibits during a trial, without any formal motion or application. <b>Provincial Court of Québec:</b> It is permitted to obtain and broadcast a copy of official recordings of proceedings for criminal and civil matters.	The use of cameras is allowed in specific areas of the courthouse as designated by chief justices. The media are authorized to record proceedings and any decision on audiotape, unless the judge decides otherwise; however, they are prohibited from broadcasting these recordings.	No one is allowed to email, tweet or text from inside the courtrooms. It is prohibited to broadcast or communicate text messages, observations, information, notes, photographs, audio or video recordings from inside the courtroom to the outside.

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NEW BRUNSWICK	No policy.	No photographs, digital images or audio or visual recordings are permitted.	Cellphones may be set on silent or vibrating mode, unless this interferes with the Court's recording devices; answering calls and sending text messages is not permitted. Members of the media may make an audio recording for note verification purposes, and they may use electronic devices to capture notes and transmit text provided that the device does not interfere with the Court's recording equipment.
NOVA SCOTIA	EXHIBITS: If the case is pending or ongoing, media must make a request to the presiding judge for access to exhibits. TRANSCRIPTS: Typed transcripts of proceedings are not provided to the public; however, copies of tapes of most proceedings in the Appeal, Supreme and Provincial courts are available for a fee. OTHER DOCUMENTS: Media and the public have access to court documentation in the custody of the Court Administrator. Documents that have a publication ban are open to public inspection.	Only media may produce, record or transmit audio, video or still photographs from inside the courthouse, and only within designated media areas—not in courtrooms. Media may use audio recorders inside courtrooms for note verification purposes only. <b>Nova Scotia Court of Appeal:</b> Television or other photographic coverage and audio recordings of proceedings are not permitted except by order of the Court.	Answering cellphone calls is not permitted, but cellphones must be set on vibrating or silent mode only; receiving text is permitted only if it doesn't interfere with the proceedings or courtroom recording system. <b>Court of Appeal:</b> Texting, tweeting and emailing is allowed by default, unless the presiding justice says otherwise. <b>Supreme and Provincial Courts:</b> Transmission of information about the proceedings from inside the courtroom by any means is not allowed without permission.
PRINCE EDWARD ISLAND	EXHIBITS AND OTHER DOCUMENTS: CDs/tapes of the evidence are provided upon request. Unless otherwise provided by any other Act, the rules or a court order, any person is entitled to see any document filed in a civil proceeding in a court, for a fee. <b>P.E.I. Court of Appeal:</b> The public and media may search the file indices and review documents except where access is restricted. TRANSCRIPTS: <b>P.E.I. Court of Appeal:</b> Media may receive a CD of a decision or proceeding for a fee.	Only members of the bar, law clerks, law students, law enforcement officials, self-represented litigants and members of the media are permitted to make an audio recording for note verification purposes only. Accredited media will, upon request, be provided with a designated space in the courthouse for interviews. <b>Court of Appeal:</b> Media operation of television and still cameras is allowed in the courtroom during a hearing, unless the presiding judge orders otherwise due to special circumstances.	<b>Court of Appeal:</b> Members of the public are not permitted to use electronic devices. Members of the bar, law clerks, law students, law enforcement officials, self-represented litigants and members of the media may use an electronic device in silent mode, which includes transmitting information from the courtroom to a publicly accessible medium (e.g., Twitter, Facebook or live blog).
NEWFOUNDLAND AND LABRADOR	EXHIBITS: A form must be submitted to a judge before access can be granted to the public or media. TRANSCRIPTS: The Court Reporters' Office will provide copies of the tapes of a civil proceeding for a fee. A transcript of an oral decision or order will be provided for a fee.	<b>Newfoundland Court of Appeal:</b> There is no restriction on audio or visual recording, upon request, unless a sitting judge objects. <b>Provincial Court:</b> Use of cameras is prohibited unless the sitting judge grants permission.	No policy currently in effect.
YUKON	In criminal matters, exhibits and documents not under publication ban may be obtained at the Court registry by accredited media, subject to the discretion of the trial judge. If the Crown or defence object to publication of an exhibit, the a formal application to the Court must be made.	Counsel, parties or media representatives who wish to record proceedings must make an application to the presiding judge. Devices capable of audio or video recording must have those functions switched off or inactive during a Court proceeding.	Counsel and accredited media are permitted to use electronic devices for note verification purposes and transmitting digital information about the proceedings, including tweeting and blogging; they are not allowed to make an audio or video recording of the proceedings.
NORTHWEST TERRITORIES	Transcripts are available from the Court Reporters' Office on request; fees are charged for copies.	Use of cameras and audio- and video-recording devices is prohibited.	Use of cellphones, smartphones, laptops, tablets or anything of a similar nature is prohibited for the public. Lawyers, justice professionals and members of recognized media organizations are permitted to use electronic devices for note verification only; sending or receiving email or texts, recording audio or video or taking photographs is prohibited.