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Watch Your Language: A Review of the Use of Stigmatizing Language by Canadian Judges

Michelle Black MSc LLB candidate,
Schulich School of Law, Dalhousie University

Jocelyn Downie MA MLitt. LLB LLM SJD
Canada Research Chair in Health Law and Policy,Professor of Law and Medicine,
Schulich School of Law, Dalhousie University
Halifax, Canada

ABSTRACT

Despite ongoing advances in understanding the causes and prevalence of mental health issues, stigmatizing language is still often directed at people who have mental illness. Such language is regularly used by parties, such as the media, who have great influence on public opinion and attitudes. Since the decisions from Canadian courtrooms can also have a strong impact on societal views, we asked whether judges use stigmatizing language in their decisions. To answer this question, we conducted a qualitative study by searching through modern Canadian case law using search terms that were indicative of stigmatizing language. We found that, although judges generally use respectful language, there are still many instances where judges unnecessarily choose words and terms that are stigmatizing towards people with mental illness. We conclude that, to help reduce the stigma associated with mental illness, judges should be more careful with their language.

Key words: stigma; mental illness; judges; language.

"The difference between the almost right word and the right word is really a large matter - it's the difference between the lightning bug and the lightning."[1]

- Mark Twain

INTRODUCTION

It might be expected that with more knowledge about the causes and consequences of psychological disorders, we would see a reduction in stigmatizing behaviours towards those who have mental illness. However, according to a U.S. Surgeon General's Report and other, more recent research, there is actually even more stigma now than there was forty years ago.[2] The history of mental illness can be captured by Kale's description of the history of epilepsy: "4000 years of ignorance, superstition, and stigma followed by 100 years of knowledge, superstition, and stigma."[3] This is troubling because stigmatization may lead to a person being stereotyped and/or discriminated against, for example through loss of job or housing opportunities, denial of societal rights (e.g., to hold elective office in the United States[4]), and being made more reluctant to seek psychiatric care.[5]

A commonly identified culprit in the stigmatization of mental illness is the media.[6] Television shows, movies, and news outlets regularly convey images of people with (often unnamed) mental illnesses as dangerous individuals to be feared. They also play regularly to any number of the other prevalent stereotypes of individuals with mental illness.[7] Less well recognized is the role of the courts in the stigmatization of mental illness. However, it has been reported that U.S. judges have a history of using and/or allowing stigmatizing language in their courtrooms.[8] We therefore decided to investigate the use of such language in Canadian cases.

Canadian courts are highly respected institutions and, given the powerful position of judges in our society, we wondered whether stigmatizing language was being used in and by them. To determine whether the language used by Canadian judges in their decisions was stigmatizing with respect to mental illness, we conducted a computer-based qualitative research review. We found that, although judges are generally respectful in their decisions, there were a number of instances in which judges used stigmatizing language.[9] To explain how we came to this conclusion, we first define our terms and describe our methodology. We then describe

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and discuss our results. We then offer some reflections on possible reasons for these results and, finally, call upon all Canadian judges to stop the use of stigmatizing language with respect to persons with mental illness.

TERMINOLOGY

It is important to first carefully define our terms – specifically, stigma and stigmatizing language. Stigma as a concept has evolved over time, with researchers taking the dictionary definition ("a mark of shame or discredit" [10]) and transforming it into a much more complex concept. The early work of Goffman is seen as a critical foundation from which much of the expansion of the concept of stigma has been built.[11] Goffman defined stigma as an attribute with particular results; stigma is "an attribute that is deeply discrediting" within a particular social interaction which results in the stigmatized person being reduced from "a whole and usual person to a tainted, discounted one."[12] Since Goffman's early work, a substantial literature on stigma has been produced; Link and Phelan attribute the ever-growing supply of definitions and information arising in this context to the variety of circumstances in which stigma research has been conducted and to the multidisciplinary nature of such research.[13]

A survey of the increasingly complex definitions of "stigma" can be somewhat bewildering. Sartorious, for example, describes stigma as "the negative attitude (based on prejudice and misinformation) that is triggered by a marker of illness - e.g., odd behaviour or mention of psychiatric treatment ...".[14] Corrigan carries the concept a step further to assert that "[s]tigma is the cue that signals a specific attitude-behavior link".[15] On this view, the attitude is the driving force behind the behaviours. According to Link and colleagues, "stigma exists when elements of labeling, stereotyping, separation, status loss, discrimination, and emotional reactions occur together in a power situation that allows them".[16] Thus, stigma is seen as a mark, an attitude, a behavior, an attitude-behaviour link, or a result. It is seen to rest in the subject or the object of the stigmatization. We are not in a position to resolve the definitional debates of this specialized field. We therefore acknowledge the complexity but take as our working definitions the following:

- *Stigma* means "a mark of shame or discredit"
- *Stigmatizing* means "causing or bestowing stigma"
- *Stigmatizing language* is language that marks mental illness as something for which one should feel shame, conveys negative judgments about persons by virtue of their mental illness, and relies upon or reinforces negative stereotypes of persons with mental illness.

METHODS

Following the Supreme Court of Canada's decision in *R v Swain*,[17] Parliament amended sections of the *Criminal Code of Canada (Criminal Code)* dealing with mental disorders.[18] For example, and of particular relevance for this paper, in s. 16 of the Criminal Code, the word "insanity" was replaced with the term "mental disorder".[19] Thus, an accused could be found "not criminally responsible on account of mental disorder" instead of "not guilty by reason of insanity". The substance of s. 16 remained essentially the same; the wording was the biggest change. The changes to the wording of s.16 were made after conducting consultations with, among others, "health officials" and NGOs including the Canadian Mental Health Association, who felt that a change in the wording would "bring it in line with current psychiatric views".[20]

We hypothesized that, despite deliberate changes in the wording of the legislation and despite increased knowledge about the etiology of mental illness and the importance of choosing words carefully, stigmatizing language would continue to be found in the text of judges' decisions. To test our hypothesis, we first established a list of words and phrases that can be stigmatizing in the context of talking about persons with mental illness. We then searched for these terms in the decisions of judges in Canadian courts available through LexisNexis Quicklaw. We searched all Canadian cases reported after the enactment of Bill C-30 on February 4, 1992.

The specific terms for which we searched were: "admit", "confess", "arrest", "imprison" (with "mental health", "mental illness", or "mental issue" in the same paragraph); a selection of archaic terms, including "insane" (truncated so deviations such as "insanity" would also be picked up), "lunatic", "imbecile", "idiot", "nutter", "shrink", "headshrinker", and "moron" (with "mental health", "mental illness", or "mental issue" in the same sentence); and "schizophrenic"[21]. Generally, these terms were chosen because, in the context of decisions involving persons with mental illness, they can be (whether indirectly or directly, whether intentionally or not) stigmatizing towards those with mental illness. More detailed explanations of the problems with the use of such language can be found in the Results/Discussion section.

RESULTS/DISCUSSION

We should first note and indeed emphasize that the judges' decisions dealing with persons with mental illness are generally crafted to show a high level of respect for those with mental illness. Many cases do not use any stigmatizing language and some of the terms for which we searched were not found.[22] However, there remain disturbing uses of stigmatizing language in judicial decisions. The following results and discussion include examples of the use of stigmatizing language and explain more fully why we and others consider such use to be stigmatizing and, therefore, to be avoided. [23]

Inaccurate Terminology

Admit

"Admit" is a term that is sometimes used by judges when speaking of people acknowledging their mental illness.

"I would add that a decision to consent to treatment on P.C.'s[24] *behalf would not violate P.C.'s determined refusal to admit that he suffers from mental illness, since such a decision would not be made by P.C.."*[25]

"K.J.D.'s refusal to admit that she is "sick" or suffering from a mental illness may arguably support the conclusion that she does not have insight into her illness."[26]

"Mrs. S. tried very hard to avoid the issue of her mental condition at the time. At one point she said that it would only be raised if it

was necessary. The irresistible conclusion is that at the time she was suffering from a serious mental illness which she did not care to admit."[27]

"I do not believe that counselling while on a conditional sentence order would cause Mr. S. to accept that he has a mental problem of some sort. I am forced to conclude that a jail sentence is more likely to achieve that necessary end. I think this is an aspect of specific deterrence, a perhaps somewhat unusual aspect, but it is necessary before rehabilitation can take place for Mr. S. to admit a problem and be willing to actively attempt to deal with it."[28]

"Dr. W. pointed to a further inconsistency in Mr. M.'s behaviour. Most paranoid schizophrenics are reluctant to admit they are ill once they are in treatment, and will resist taking medication and try to hide their illness. However, Mr. M. tended to call out to anybody who would listen that he was ill."[29]

"In Dr. D.'s opinion, Mr. W.'s behaviour presents certain risks to himself and to others, and requires treatment, which should be administered by force if he refuses it. Dr. D. assesses these risks on the basis of Mr. W.'s past behaviour, his refusal to admit that he has any mental illness, his inability to understand how medical treatment can improve his mental state, and his innate mistrust of the Institute's staff."[30]

Since the stigma surrounding mental illness is still so strong, people who have received a diagnosis of mental illness might feel that it is something to which they might have to "admit". However, judicial use of this term perpetuates the notion that mental illness is something of which to be ashamed, or to keep as a secret. This cannot be due to a lack of acceptable alternatives - there are many words or phrases, such as "acknowledge", "show appreciation (for)", and "recognize" that convey the appropriate meaning without the connotation of shameworthiness.

Arrest

"Arrest" is a term that is sometimes used by judges when describing the apprehension of persons with mental illness not on suspicion of having committed criminal offences but, rather, for the purpose of having them taken into the mental health system for purposes of psychological assessment.

"Subsequently, police attended at the accused's location and arrested him under the authority of the Mental Health Act and transported him to hospital."[31]

"There were indications from D.K. that her husband was upset and depressed. As a result, the respondent was arrested under the Mental Health Act, R.S.N. 1990 c. M-9 and brought to the police lockup in St. John's for assessment by a doctor."[32]

"It was at this point, some 30 minutes after awakening the Accused, that Constable K. stated that he had 'reasonable and probable grounds to believe' that she was a danger to herself, and he therefore arrested her under the Mental Health Act."[33]

However, the term "arrest" is inappropriate when describing the process of detaining a person under mental health legislation for psychological assessment.[34] The word "arrest" is, of course, an appropriate term to use when describing police actions in relation to, for example, a theft. However, none of the provincial/territorial mental health acts actually contain the word "arrest".[35] Despite this, as illustrated above, the word "arrest" continues to be used by judges when describing the apprehension of someone for the purposes of having them submit to a psychiatric evaluation under mental health legislation.

Surprisingly, judges persist in using the word "arrest" even when they are aware that it is not present in the statute. For example, one judge used the sub-heading: "Arrest under the Mental Health Act" and then proceeded to outline the provisions of that part of the act: "The Mental Health Act ... provides that a person suffering from a mental disorder, defined in s. 1(g) of the Act, may be apprehended under s. 10 or s. 12 of the Act."[36] Despite having just given a word-for-word recitation of the relevant part of the statute, and despite the fact that the word "arrest" does not appear in the section, the judge still referred to the process as an "arrest".

Similarly, another judge discussed at some length the purpose behind the *Mental Health Act*, but still referred to the action taken as being an "arrest" rather than detention or apprehension:

"I presume that on each occasion the complainant was arrested pursuant to s. 17 of the Mental Health Act. A purposive analysis of the arrest power under s. 17 of the Mental Health Act reveals that it is meant to be employed as the initial stage in a course of treatment for an individual in certain circumstance[s] including whether the police officer is of the opinion that "the person is apparently suffering from mental disorder of a nature or quality" that will likely result in serious bodily harm or serious physical impairment to that person or another person."[37]

Another judge acknowledged that there is some value to distinguishing between arresting a person and taking a person into custody, but maintained that being "arrested" per the Criminal Code and being taken into custody per the *Mental Health Act* are essentially the same thing:

"I recognize the social value of distinguishing between people who have been taken into custody for health reasons and those who have been arrested because they allegedly committed a criminal offence. However, the reality remains that generally police officers are authorized to act in the same manner under the Act as they would under the Criminal Code, R.S.C. 1985, c. C-46, when performing an arrest. There is really no substantive distinction between the act of forcibly taking someone into custody, and the act of arresting someone. Both generate risks to the individual, the police and the public. Specifically, as compared to a criminal offence, taking a person into custody who has mental health problems potentially generates similar or sometimes greater risks to officer and public safety. Such a risk is clearly present when the officers are responding to a threat by a person to cause bodily harm to himself or to another person."[38]

The judge here failed to appreciate the seriously stigmatizing impact on individuals with mental illness of suggesting that there is no meaningful substantive difference between being suspected of having committed a crime and being thought to be mentally ill. With the focus on the effects on police officers and the public, the judge lost sight of the effect on the persons with mental illness.

Certainly, there are times when a person who happens to have

a mental illness will be arrested because they are alleged to have committed a crime. But when the judge explicitly indicates that the person was "arrested" per mental health legislation, it is an inaccurate and stigmatizing statement.

Imprison

Just as it is stigmatizing and inaccurate to say that a person has been arrested under mental health legislation, so too is it objectionable to indicate that a person is being "imprisoned" at a psychiatric institution, even when they are there involuntarily. Nonetheless, such language can be found in the case law:

"Considering that the defendant Hospital is not empowered to imprison its patients or force treatment upon them, absent Certification under the Mental Health Act which is the province of physicians, I query the seriousness of this argument."[39]

If a person is being detained at a hospital for a psychiatric evaluation or treatment, they are not being imprisoned. It is important to distinguish between the two concepts, as speaking of imprisonment and arresting people under mental health legislation perpetuates the notion that people with mental health problems are, or are like, criminals and have done something blameworthy.

Archaic Language

Insane

Just as it is no longer acceptable to refer to someone as "crazy", it is also unacceptable to use such terms as "lunatic", "imbecile", "idiot", and "insane".[40] While it might be argued that some of these words do continue to appear in legislation, it is unnecessary to use these words unless quoting directly from the statute. As mentioned in the Introduction, deliberate steps have been taken to remove the word insanity from the mental disorder provisions of the *Criminal Code*, so one would (and reasonably could) expect a concurrent shift in the language of the courts. However, it is still possible to find objectionable archaic language in the case law:

"It is obvious that it is fundamental to Mr. C.'s case in the present action that he is not insane and was not insane when he was judicially found to be insane." [41]

"Either she [the accused] is insane or she is evil, one or the other, which one is it?".[42]

"In this case, the Crown argues that while the foregoing comments were specific to an insanity defence, they apply equally to this case where the defence lies in a lack of intent."[43]

"First of all, we must point out that, after rejecting the defence of insanity, the jury could still have considered the appellant's mental condition in deciding whether the Crown had proven beyond a reasonable doubt that she had the specific intent to commit murder when she killed her son."[44]

"The Alberta Court of Appeal set aside the conviction and ordered a new trial on the ground that the trial judge had erred in his interpretation of the insanity provision of s. 16(1) of the Criminal Code, R.S.C., 1985, c. C-46. The Crown appeals to this Court against that order, seeking reinstatement of the conviction for murder."[45]

"Before dealing with those two submissions I want to say that, in my opinion, the Judge was correct in not putting either insanity or self-defence to the jury. There was no evidence that Mr. H. met the test of insanity set out in s. 16 of the Criminal Code of Canada or that he was acting in self-defence."[46]

"(Nor is it likely that someone can really intend to get so intoxicated that they would reach a state of insanity or automatism.)"[47]

In what might appear to be a step in the right direction, a judge in one case put the word "insane" in quotes, thus appearing to recognize its problematic nature. However, the footnote accompanying the word belies even a moderately positive interpretation of the step: "I use the word 'insane' when speaking at a general level to refer to anyone who is exempt from criminal liability under s. 16 of the *Criminal Code*".[48] As of the decision date, "insane" was no longer a term used in s.16.

One response to our criticism of the continued use of the term "insane" might be that the new terminology (i.e., mental disorder) is ungainly. This is in fact a criticism that some have levied against "people first language" (discussed below under the subheading "Non-People First Language") - that people first language "is unwieldy and repetitive, and any ear tuned to appreciate vigorous, precise prose must be offended by its impact on a good sentence."[49] Similar criticisms, under the guise of economy of language, have been implied in terms of the s.16 provisions:

"However, in order to more accurately reflect the provisions of section 16 of the Criminal Code [Justice Bastarache] stated that the terms 'mental disorder' automatism and 'non-mental disorder' automatism should be used instead of insane and non-insane automatism. Professor Paciocco refers to non-mental disorder automatism more economically as 'sane automatism' which is a term that I prefer." [50]

But we are not just talking about the quality of prose or the elegance of a sentence. More importantly, we are also talking about the dignity of people who should not be identified by words that are insulting and harmful. Despite what the judge said in the previous example, there is no necessity to be economical in the judgment. Respectful, yes. Accurate, yes. Economical, no.

Unlike the judges quoted above, other judges acknowledge the change in the *Criminal Code* ("The current wording of s. 16 which references 'mental disorder' recently replaced earlier language defining insanity"[51]) and they make use of the new terminology ("it is the defence's primary position that Mr. S.A.T.C. is not criminally responsible for his actions in the sense that the defence of mental disorder which is set forth in section 16 of the Criminal Code of Canada applies.")[52]. Clearly, it is possible to phase out the use of this antiquated term.

Lunatic

Archaic words such as idiot and lunatic were once acceptable terms.[53] Now, they are rarely to be found, although some (particularly lunatic) are still lurking in various statutes[54] and some judges seem comfortable with continuing to use the term "lunatic". *"As long ago as 1955, our Court of Appeal observed in Hardman v. Falk, [1955] 3 D.L.R. 129 at p. 133:*

The contract of a lunatic is voidable not void: see York Glass

Co. v. Jubb (1925), 134 L.T. 36. Courts of equity will not interfere if a contract with a lunatic is made in good faith without any knowledge of the incapacity of the lunatic and no advantage is taken. If the contract is fair and the respondent had no knowledge that the appellant was a lunatic, the appellant is without a remedy: see Wilson v. The King, [1938] 3 D.L.R. 433 at p. 436, S.C.R. 317 at p. 322. [Robertson J.A.]

So, too, I suggest would the party contracting with the lunatic in circumstances such as those here be without a remedy."[55]

Even though the word "lunatic" is still found in some current federal and provincial legislation, judges have the opportunity to substitute more acceptable words or to use quotation marks (and cite the statute) as an acknowledgement that the use of such words as acceptable labels has expired. In the above example, the judge was not even citing a statute and therefore should have chosen a different word.

Non-People First Language

Schizophrenic

Unfortunately, judges often describe people in terms of their illness:

"Mr. P. is a disadvantaged individual. He has been diagnosed as a paranoid schizophrenic."[56]

"Mr. C. also suffers from a major mental illness. He is a paranoid schizophrenic."[57]

"M.M. (who is now deceased) was a developmentally delayed, schizophrenic woman who spent time at the Kingston Centre mall."[58]

"He, Mr. S., certainly understands the importance of him being labeled a schizophrenic as opposed to one being labeled as suffering from antisocial personality disorder."[59]

"S.M. is 38 years old. She is single and is a chronic schizophrenic."[60]

"A patient in a mental hospital asked to make a will ... The testator, a paranoid schizophrenic, exhibited bizarre behaviour on the evening of his psychiatric examination and before and after executing the will."[61]

"He is a schizophrenic and has been schizophrenic since his young - late teen years, early twenties."[62]

"He also accepted that schizophrenics have an impairment of the executive functions of the brain which can manifest itself in difficulty spontaneously processing information as they encounter it, resulting in a slowed down thought process. He stressed, however, that it is highly variable as to how impaired a schizophrenic might be. Some are highly functional and others show significant deficits manifested by episodic memory deficits and a compromise of executive control processes."[63]

"It is very common for schizophrenics to resist taking anti-psychotic medications because the illness compromises insight into the illness, its presence and the need for treatment."[64]

The problem with identifying people with mental illnesses by the diagnosis which they happen to have (as, for example, "a schizophrenic") is that it is the first (and sometimes only) way in which they are identified, which can lead to the dehumanizing of those persons. The dehumanization of people with mental illness is common and makes it too easy for anyone outside of the illness to think of the person as "a schizophrenic" rather than a person who has schizophrenia; the person *is* the disease, rather than the person *has* the disease. Yet, as Otto Wahl points out, we don't do this with so-called physical illnesses - we don't call people "cancerous" or "heart diseased".[65] To avoid labeling people as their illness, many sources suggest using "people first language", which recognizes that anyone, regardless of their physical or mental condition, is a person first and foremost. Rather than calling a person "a schizophrenic", they should be referred to as a person with schizophrenia. This could, of course, be generalized to other psychiatric disorders (e.g., refraining from calling someone "a psychotic").

REFLECTIONS ON REASONS FOR RESULTS

While we start from the assumption that judges are not *trying* to stigmatize, a search through the case law suggests that inappropriate words and phrases are still being used. Certainly judges have been known, at times, to fail to recognize the extent of other kinds of social development happening around them. Take, for example, Justice McClung's deplorable words in the *Ewanchuk* case. There, McClung JA said (amongst other things) that the sexual assault committed by the offender was "less criminal than hormonal." He also said that the woman "did not present herself to Ewanchuk . . . in a bonnet or crinolines.""[66] Madame Justice L'Heureux-Dube criticized McClung's language for perpetuating the myths and stereotypes about sexual assault against women:

> The *Code* was amended in 1983 and in 1992 to eradicate reliance on those assumptions; they should not be permitted to resurface through the stereotypes reflected in the reasons of the majority of the Court of Appeal. It is part of the role of this Court to denounce this kind of language, unfortunately still used today, which ... perpetuates archaic myths and stereotypes about the nature of sexual assaults ...[67]

Similarly, we would argue that the language some judges use today continues to perpetuate the myths and stereotypes about mental illness, despite the change in language that was deliberately made in the *Criminal Code* following the 1991 *Swain* decision.

So why are some judges still using such lanugage? It may be a combination of factors. There is some evidence to suggest that judges can be influenced by the media as well as by certain internal biases.[68] Further, judges hear such language coming from the expert witnesses - the psychologists and psychiatrists who treat the accused. Consider each of these possible influences in turn.

A great number of studies have examined the extent to which the media stereotypes people with mental illness, with the predominant stereotype being that of the dangerous "mental" patient.[69] In books, television, news programs, movies, newspaper articles, and even children's programming, the media inundates society with misrepresentations of mental illness. The media has played a powerful and negative role in perpetuating the myths and stereotypes of mental illness and judges, like the rest of us,

are not immune to the influences of biasing information.[70] Thus, since our society (if the media can be taken as a measure of what our society will pay for and condone) still appears to feel quite comfortable with negative images of people with mental illness, it is possible that judges, too, are susceptible to such images.

Judges have also been shown to be just as prone to certain biases as other decision makers. Guthrie and colleagues conducted a series of experiments through which they found that judges show comparable amounts of hindsight bias (tending to think that someone should have "known better") and egocentric bias (believing that they are less capable than others of making mistakes) than did decision makers in other studies.[71] While Guthrie et al caution that their experiment does not necessarily translate directly into the courtroom, they suggest that there are indeed existing examples of occasions when a judge's biases influenced certain decisions made in court. These biases to which the judge may be susceptible could result in the judge having a particular, pre-determined view of the people in his or her court and this may lead to the incorporation (or the lack of filtering) of stigmatizing language.

Finally, it is conceivable that judges hear stigmatizing language within the courtroom coming from the people who certainly ought to know better - those who work in the mental health field itself. Research studies have demonstrated that caregivers and those in the mental health field can be extremely stigmatizing.[72] Indeed, the Mental Health Commission of Canada is launching a 10 year anti-stigma campaign, and its first two focus groups are children and those employed in the mental health field.[73] But just as it is of course not acceptable for judges to blindly accept testimony, they need not also unthinkingly repeat testimony. A judge could use alternate words or terms or at least put quotes around language that is stigmatizing and distance the court from it. Similarly, a judge should feel entitled and responsible for challenging the language of the witness when it is derogatory towards those with mental illness.

CONCLUSION

In closing, it is important to stress that we do not believe that judges are actively trying to be stigmatizing. On the whole, in fact, judges appear to use appropriate and respectful language. Still, we trust judges to use respectful language since, as leaders of our community, they are unquestionably in a position to influence the way society thinks about mental illness.[74] That is why we look to them to set the linguistic tone, and why we suggest that some of them must be more careful with the words they choose. In his book "Telling is Risky Business", Otto Wahl offers a list of things that we all can do to help reduce stigma and one of the items on his list is to "Watch our language". [75] This is precisely what we would ask of all Canadian judges.

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19. Other changes included, for example, the elimination of the lieutenant governor's warrants; *Ibid*.
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21. This last term was used as an example of non-people first language. See below for a discussion on this issue.
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23. It must be emphasized here that we conducted a qualitative not a quantitative study. Our research question was whether

this kind of language was still being used rather than to what extent it was still being used. We restricted our approach in this way to make the project feasible (there would simply be an unmanageable number of cases to review if one wanted to draw conclusions about prevalence) and because we felt that the ongoing existence of use was a problem worth discussing independent of the prevalence of use.

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30. Institut Philippe Pinel de Montréal v. W., Q.J. 1041 (1997), QC.C.S.
31. R. v. A., O.J.1591 (2006), ON.Ct.Jus.
32. R. v. K., 355 (1993), NL.S.C.
33. R. v. M., B.C.J. 2400 (2008), B.C.Prov.Ct.
34. See, e.g., the Psychiatric Patient Advocate Office, online at: http://www.ppao.gov.on.ca/sys-arr.html.
35. Although, in the French version of the Yukon Mental Health Act, the word "arrêtée" is used; in English the word used is "apprehend" *Mental Health Act*, R.S.Y. 2002, c. 150 s. 41(1).
36. R. v. C., A.J. 292 (2005), AB.Prov.C.
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56. R. v. P., Nu.J. 17 (2007), NuCt.Jus.
57. R. v. C., O.J. 5857 (1998) ON.Ct.Jus.
58. R. v. C., O.J. 3609 (2007), ON.Sup.Ct.Jus.
59. R. v. S., O.J. 2765 (2009), ON.Ct.Jus.
60. Nova Scotia (Minister of Community Services) v. M.N.S.J. 367 (1995), NS.Fam.Ct.
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74. The case in footnote 39 received much attention from local press, with newspapers running such subheadlines as: "'Either she's insane or she's evil,' judge says in handing commuter 12 months [sic] probation plus fines for burning victim in morning rush". Globe and Mail online at: http://v1.theglobeandmail.com/servlet/story/RTGAM.20090601.escenic_1163315/BNStory/. National Coverage from other sources inevitably included the line cited in note 39.
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Address for Correspondence:
Jocelyn Downie
6061 University Avenue
Halifax, Nova Scotia, Canada B3H 4H9
e-mail: *jocelyn.downie@dal.ca.*