

ACCESS TO JUSTICE COORDINATING COMMITTEE (A2JCC)



FINAL REPORT

2018

Foreword from the A2JCC Co-Chairs

It has been said that “access to justice exists when the public can understand, use and afford information and services to prevent and resolve their legal disputes and to achieve just outcomes without delay.”¹

This is the standard our justice system strives for every day. But we know it is not always the reality.

Our mandate when we first started out in 2014 was twofold: a) to coordinate the good work already being done to improve access to justice, and b) identify and address gaps in service through meaningful public engagement.

In doing this, we have come to realize several important things.

For example, we learned that there are many reasons why people get involved with the legal system; we learned that how services are provided is as important as providing the services themselves; and we learned that despite the best efforts of many working within the justice system, there are still barriers preventing many Nova Scotians from accessing the legal help they need.

We need to do better, and this can only be achieved by putting the public first.

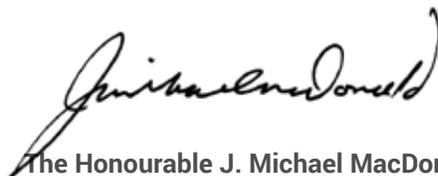
There is good work already happening across the province, much of which is outlined in this report. Of course, this is not meant to be an exhaustive list, rather

a snapshot of Nova Scotia’s innovative and resourceful responses to this country’s access to justice challenge.

We are proud of the new initiatives Nova Scotia’s Access to Justice Coordinating Committee has launched and those that were reinvigorated because of the A2JCC’s support and encouragement. Other ideas, like the establishment of an access to justice institute, give us hope for the future.

Chairing this Committee has been some of the most important and rewarding work we have had the good fortune to have been involved with. It has also been incredibly humbling.

Thank you to our A2JCC colleagues for your unwavering commitment to our joint goal. It is now up to the new Access to Justice & Law Reform Institute of Nova Scotia to continue promoting improved access for all Nova Scotians.



The Honourable J. Michael MacDonald
Chief Justice of Nova Scotia



The Honourable Mark Furey
Attorney General of Nova Scotia

Table of Contents

Executive Summary 7

The Access to Justice Challenge 9

Nova Scotia Responds 10

PART 1 – What We Learned 11

 Barriers 11

 Analysis 14

 Factors for Success 20

PART 2 – Rising to the Challenge 22

 Free Legal Clinics 22

 Nova Scotia 211 22

 #TalkJustice 23

 Non-Profit Law Firm Proposal 27

PART 3: Moving Forward 28

 Access to Justice Institute 28

 Conclusion 29

Special Thanks 31

APPENDIX A – A2JCC Terms of Reference 32

APPENDIX B – Access to Justice Initiatives Across Nova Scotia 34

Endnotes 42



The Hon. Michael MacDonald, Chief Justice of Nova Scotia, at Spread the Love Day in 2017. Every summer, the Mulgrave Park Phoenix Youth and Community Centre organizes a day where young participants hand out candy-grams and spread positive messages to the people they meet. The event often includes a stop at the Law Courts, where the youth visit a courtroom and learn about the legal system.

Executive Summary

In 2013, the public received two important reports highlighting the access to justice challenge in Canada's justice system – *Access to Civil & Family Justice: A Roadmap for Change*, published by the National Action Committee on Access to Justice in Civil and Family Matters, and *Reaching Equal Justice: An Invitation to Envision and Act*, published by the Canadian Bar Association.

Both documents point to widespread problems in the civil, criminal and family court systems that are preventing citizens from accessing information and support to deal with their legal problems in a timely and affordable way. The reports also show that individuals with lower incomes and members of vulnerable groups experience more legal problems than higher income earners and members of more secure groups.

In 2014, in response to these reports, Nova Scotia established its own Access to Justice Coordinating Committee (A2JCC) to find ways to make Nova Scotia's family, civil and criminal court systems more efficient and effective, less costly and easier to navigate. The A2JCC also agreed to appoint one of its members to work with the National Action Committee, reporting annually on the efforts underway in Nova Scotia.

The Committee was co-chaired by the Chief Justice of Nova Scotia and the province's Attorney General, and started its mandate with representatives from the Nova Scotia Barristers' Society, the Nova Scotia Branch of the Canadian Bar Association, the Nova Scotia Legal Aid Commission, the Schulich School of Law and a public representative. Over time the Committee grew, appointing

representatives from the Indigenous and African Nova Scotian communities to increase diversity and better inform the work ahead. Everyone agreed that broadening the perspective of the A2JCC was essential, because, as Crown attorney David Curry noted in his presentation to the Committee: "If we're not addressing access to justice for the most vulnerable communities, we're not addressing access to justice at all."

The first phase of the Committee's mandate focused on researching the access to justice initiatives currently available across Nova Scotia and hearing from the groups delivering them, including:

- the HUB (Nova Scotia RCMP);
- the Provincial Access to Justice Tribunal Committee;
- Dalhousie Legal Aid;
- the Nova Scotia Legal Aid Commission;
- the Legal Information Society of Nova Scotia;
- the Law Foundation of Nova Scotia;
- the #TalkJustice team at the Nova Scotia Barristers' Society;
- the Nova Scotia Family Law Working Group;
- the Criminal Justice Transformation Group;
- Nova Scotia 211;
- the Nova Scotia Law Reform Commission; and
- representatives from the province's Indigenous and African Nova Scotian communities

The second phase was spent launching several access to justice initiatives, including the widely popular Free Legal Clinics, and enhancing existing innovative projects to help Nova Scotians navigate the civil and family law systems.

In 2016, the A2JCC agreed to partner with Nova Scotia 211 to provide a navigator for Nova Scotians looking to access justice, legal and other related programs and services across the province. The benefits of this partnership include enhanced awareness of 211, additional training for 211 staff, reports for stakeholders that identify the needs and where they can make a greater difference, and finally, broader promotion to the public.

“...individuals with lower incomes and members of vulnerable groups experience more legal problems than higher income earners...”

The same year, after a presentation from the Nova Scotia Barristers’ Society, the A2JCC agreed to convene a second phase of the Society’s #TalkJustice project, with the goal of engaging the public and incorporating first voices from people’s experiences with justice.

The new #TalkJustice team, comprised of representatives from the Nova Scotia Courts, the Barristers’ Society, the Nova Scotia Department of Justice, and Legal Aid, gathered stories through in-person sharing circles and anonymously online using *SenseMaker*® software. The

program is set up so that users share their experience and answer general questions. Based on their responses, the software can identify important themes and relationships without imposing someone else’s lived experiences or unconscious biases on the data.

#TalkJustice 2.0 began as a six-month pilot project, with the hope of incorporating the engagement tool as a permanent means to gather feedback for government and community justice organizations to draw from when making policy and funding decisions. By the summer of 2017, the project had collected 221 stories.

To carry on the important work of the A2JCC, including the ongoing public engagement through #TalkJustice, the Committee supported the idea of establishing an access to justice institute for the province. The Nova Scotia Department of Justice agreed to provide financial assistance in 2018/19, in conjunction with other funding sources, for an institute that supports access to justice and law reform work.

The new Access to Justice & Law Reform Institute of Nova Scotia will serve as an access to justice hub and will be well-placed to coordinate projects that allow work encompassing both traditional law reform and access to justice orientation. This includes gathering and analysing data to help develop projects associated with government priorities, such as how to work collaboratively on access to justice initiatives, generating new policy goals, and developing legislative proposals to accomplish those goals.

The Access to Justice Challenge

In 2013, the public received two important reports highlighting the access to justice challenge in Canada's justice system. These documents point to widespread problems in the civil, criminal and family court systems that are preventing citizens from accessing information and support to deal with their legal problems in a timely and affordable way. Both reports also show that individuals with lower incomes and members of vulnerable groups experience more legal problems than higher income earners and members of more secure groups.

The Canadian Bar Association tabled a summary version of its report, *Reaching Equal Justice: An Invitation to Envision and Act*, at its Canadian Legal Conference in August 2013. The final report was released publicly in November of the same year. The CBA report summarized the state of access to justice in Canada as “abysmal”, a reality that affects everyone, particularly the poorest and most vulnerable people in our communities.²

The National Action Committee on Access to Justice in Civil and Family Matters (NAC) published its report, [Access to Civil & Family Justice: A Roadmap for Change](#), in October 2013. The clear message coming out of the consultations for that report was the legal system is broken. Consequently, the report provided a strategic framework for action and called on all members of the justice community to engage with and act upon it.

The NAC report also points to the need for a significant culture shift to improve access to justice in Canada. With that in mind, The Honourable Thomas Cromwell, then a Justice of the Supreme Court of Canada and the Chair of the National Action Committee, called on the legal system to start putting people first.

To help achieve that goal, the NAC report includes six guiding principles for change – essentially an access to justice roadmap – and challenges the provinces and territories to move beyond “wise words” and bridge the “implementation gap.”³ This roadmap is designed to help guide reform ideas into real reform.

Finally, a third report, released by the Canadian Forum on Civil Justice in 2016, further highlighted the access to justice challenge in Canada:

Almost half (48.4%) of Canadians over 18 will experience at least one civil or family justice problem over any given three-year period. Even though many Canadians do not understand, feel connected to or welcomed by the justice system, essentially all of us will experience at least one everyday legal problem over the course of our lifetime.⁴

Nova Scotia established its own Access to Justice Coordinating Committee (A2JCC) with these reports and calls to action in mind.

Nova Scotia Responds

One of the goals identified in the National Action Committee roadmap was to create local and national access to justice implementation mechanisms. In Nova Scotia, that came in the form of the Access to Justice Coordinating Committee (A2JCC).

“...the A2JCC was tasked with finding ways to make Nova Scotia’s family, civil and criminal court systems more efficient and effective, less costly and easier to navigate.”

Established in June 2014, the A2JCC was tasked with finding ways to make Nova Scotia’s family, civil and criminal court systems more efficient and effective, less costly and easier to navigate.

Its general purpose, as outlined in the Committee’s Terms of Reference (see Appendix A), was to make Nova Scotia a national leader in access to justice improvements by:

- Promoting an efficient and cost-effective justice system for all Nova Scotians with an emphasis on justice services that address family law matters, criminal law processes and the individual’s civil legal needs;

- Promoting an understanding of the importance of equal and accessible justice as a hallmark of a free and democratic society; and
- Encouraging the development of a shared purpose in pursuing these objectives.

More specifically, the A2JCC was expected to provide leadership for a cohesive and collaborative approach for access to justice initiatives in Nova Scotia; to provide, as appropriate, a forum for engaging the public and public sector participants; and to share information, monitor and coordinate the work undertaken, and educate the public on the Committee’s efforts.

In the beginning, the A2JCC was co-chaired by The Honourable J. Michael MacDonald, Chief Justice of Nova Scotia, and then Justice Minister, Lena Metlege Diab. Subsequent Justice Ministers, including Diana Whalen and most recently Mark Furey, took over on the Committee as they were appointed to Cabinet.

Other organizations represented on the Committee included the Nova Scotia Barristers’ Society, the Nova Scotia Branch of the Canadian Bar Association, the Nova Scotia Legal Aid Commission, the Schulich School of Law at Dalhousie University, and a public representative.

Later in the Committee’s mandate, and by unanimous agreement, the A2JCC members agreed to appoint representatives from the Indigenous and African Nova Scotian communities, to increase diversity and better inform the work ahead.

PART 1 – What We Learned

The first phase of the Committee’s mandate focused on researching the access to justice initiatives currently available across the province and hearing from the groups delivering them. Chief Justice Michael MacDonald often described this as coordinating the good work already being done, with the goals of improving navigation and avoiding duplication; and identifying and addressing gaps in service through meaningful public engagement.

As part of its research, the A2JCC welcomed presentations from several groups, including the HUB (Nova Scotia RCMP), the Provincial Access to Justice Tribunal Committee, Dalhousie Legal Aid, the Nova Scotia Legal Aid Commission, the Legal Information Society of Nova Scotia, the Law Foundation of Nova Scotia, the #TalkJustice team at the Nova Scotia Barristers’ Society, the Nova Scotia Family Law Working Group (led by the Department of Justice), Nova Scotia 211, the Nova Scotia Law Reform Commission and representatives from the province’s Indigenous and African Nova Scotian communities.

To learn more about the problems in the province’s criminal justice system specifically, the Committee heard from the Criminal Justice Transformation Group, an action group chaired by the Deputy Minister of Justice and comprised of those who lead the various components of the criminal justice system. The group’s mandate is to work collaboratively and strategically to ensure the criminal justice system works effectively.

Most people would agree that access to justice is a fundamental right in a democratic society like Canada; however, the Committee’s research reinforced the findings

of the National Action Committee’s report – that is, cost, delays, long trials, complex procedures and other barriers are crippling the justice system in all jurisdictions, including Nova Scotia.

BARRIERS

The A2JCC identified the barriers many Nova Scotians face when trying to access services, as well as the challenges hindering the deliverance of those services. Many of these were also highlighted in reports by the Law Society of Upper Canada’s Access to Justice Working Group, the Law Foundation of Nova Scotia (*Grants Review and Future Directions*), and Manitoba’s Canadian Center for Policy Alternatives (*Justice Starts Here: A One-Stop Shop Approach for Achieving Greater Justice in Manitoba*).

Those barriers include:

- **Inadequate and Uninformed Engagement of Racialized Communities**

When engagement is delayed or inadequate, it underlines a lack of understanding of the experience of the Indigenous and African Nova Scotian communities with the justice system. Failing to understand that each community within the larger racialized community may require a different approach also demonstrates a lack of cultural awareness.

The lack of people from marginalized communities working in justice is another system-wide problem, particularly when juxtaposed with the overrepresentation of those communities in the



Legal experts and leaders from the African Nova Scotian community spoke with members of the Judiciary at a two-day engagement conference in Cherry Brook, N.S. The event was an opportunity for judges to learn about Black history and culture, as well as the unique challenges facing the African Nova Scotian community, particularly in the context of the justice system.

criminal justice system. An effective and accessible justice system requires inclusive consultation, decision-making and program development at all stages. As well, all members of society need to see themselves reflected at all levels of the legal system; although there has been recent progress in this area, more work needs to be done.

“As noted in the National Action Committee report, we need to put the public first. ...the focus must be on the people who need to use the system.”

- **No Money/Resources**

Service providers are often unable to meet the demand for services due to a lack of funds and other resources. The CBA report notes a trend in government spending on justice: “Health and education funding is generally stable or gradually increases, while spending on justice is flat or declines from year to year.”⁵

The situation can worsen, depending on the socioeconomic status of the person seeking services. Individuals with lower incomes and members of vulnerable groups often experience more legal problems and may require more services than higher income earners and members of more secure groups.

- **Meaningful Communication**

Too many people still find the legal system confusing and difficult to navigate. Court rules and resources are written for people with legal training, and judges, lawyers and court staff often revert to speaking in legal jargon, leaving complainants, self-represented litigants and others unsure of what to do or who to ask for help.

As much as possible, legal information, court decisions and other documents must be written in plain language and services should be developed with the court user in mind. As noted in the National Action Committee report, we need to put the public first. Rather than focusing inward from the point of view of those who work in the legal system, the focus must be on the people who need to use the system.

- **Lack of Data**

Much of the feedback on the functionality of the legal system is based on anecdotal evidence. The lack of reliable statistics to support decision-making is an impediment, particularly the insufficient race-based data in areas such as child protection, policing, and corrections.

- **Delivery of Services in Urban vs. Rural Communities**

As noted in the Law Foundation’s *Grants Review and Future Directions* paper, services, including internet access, are not as available or accessible in rural Nova Scotia. As well, the centralization of services, such as those at courthouses, poses significant barriers considering the lack of transportation options and limited services in many rural communities.

- **Growing Number of Self-Represented Litigants**

As the cost of legal services continues to rise, more Nova Scotians are choosing to represent themselves in court. This is a national trend. As Dr. Julie MacFarlane of the National Self-Represented Litigants Project noted in her 2013 paper on the topic: “There is an urgent need to address the consequences of the large and growing numbers of people representing themselves in both family and civil court. ... [It is] likely that a substantial [self-represented litigant] population in the courts is here to stay.”⁶ A 2013 review of family law case files in the Supreme Court of Nova Scotia (Family Division) supports this statement; the review found that approximately 54 per cent of applicants and as much as 85 per cent of respondents do not have a lawyer when the Notice of Application in their family law matter is filed.⁷

- **Lack of Integrated and Holistic Responses**

As noted in a presentation on the historical context of the African Nova Scotian experience, the failure to address access to justice for our most vulnerable communities means that access to justice is not being addressed at all. The A2JCC also learned from presentations to the Committee that many Nova Scotians with legal problems also face health, social and financial problems. A more integrated approach would help to treat all the related issues a person is experiencing. As the Manitoba CCPA report noted:

“...a more holistic or integrated approach to providing legal services would draw from a more constant and collaborative presence in and with the community. This means understanding the larger context in which individual legal troubles arise.”⁸

- **Transforming Good Ideas into Something More Tangible**

Many agree that the time has come to move in small ways, in addition to tackling larger systemic issues of access to justice. Individuals, organizations and the broader legal system must be prepared to experiment with safe-to-fail initiatives, with a view to scaling up those ideas that do work and abandoning those that do not. It is important to embrace the concept of doing things differently.

ANALYSIS

Based on what the Committee heard, the A2JCC undertook an analysis to identify what needs to be done to move from the current state to the desired state of access to justice in Nova Scotia. Several themes – again not unique to Nova Scotia – emerged:

- **Stakeholders’ Role, Responsibilities and Relationships**

There is a desire to see more integrated programs involving multiple agencies, and professional staff who are personally committed, versus arbitrarily assigned to this work in addition to their regular responsibilities. Initiatives should build upon the current strengths and structures as well as the processes and systems established in communities. The Criminal Justice Transformation Group is a good example of this.

- **Innovation**

Part 2 of the National Action Committee report called for a “culture shift” – a new approach to

thinking about reforms to the justice system. The Schulich School of Law demonstrated this type of approach in its most recent four-year strategic plan, which includes innovative ideas like a non-profit or “social profit” law firm.⁹ Such a model would offer law students experiential and clinical learning opportunities; provide service to citizens who would otherwise not have access to legal information, advice and advocacy; and could potentially create more articling opportunities for new graduates.

“Solutions need to be responsive to needs of a specific group and involve the community they aim to help.”

- **Community Engagement**

In hearing from our African Nova Scotian and Indigenous representatives on the A2JCC, we know how important it is to engage the community before trying to connect people with services. Knowing the history and culture of a community, including understanding the individual and collective circumstances of that group, is key to helping people access the help they need.

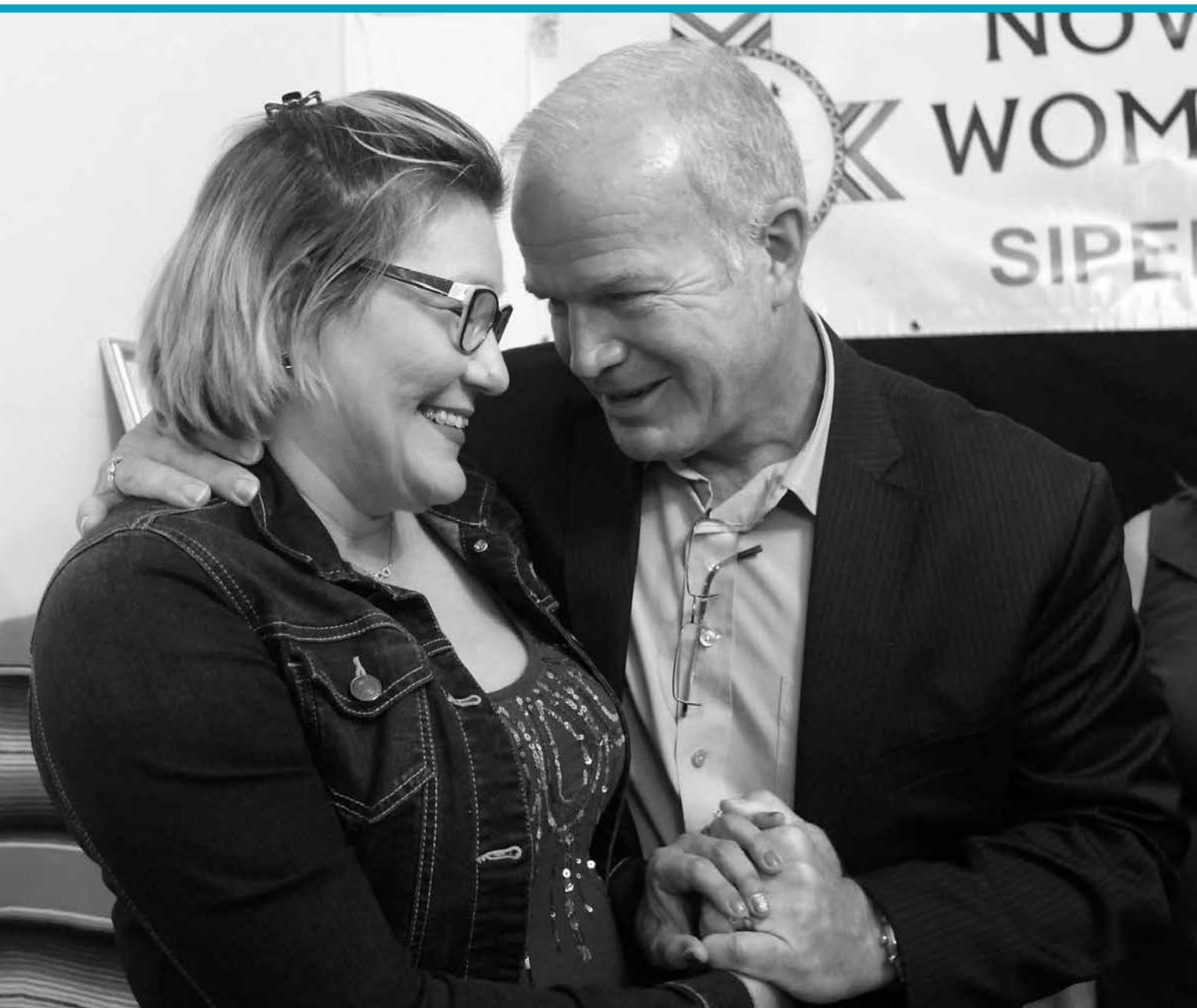
As noted in the Colloquium report: “...there is no single ‘repair manual’ – there is no one program, plan or solution that will meet the diverse needs of Canada’s multiple and unique communities and jurisdictions.”¹⁰ Solutions need to be responsive to needs of a specific group and involve the community they aim to help. For

example, The Hub, run by the Nova Scotia RCMP, is an initiative that seeks to reduce youth crime through risk assessment, intervention and diversion. The project shows that a community driven model can be successful, while also looking at what is best for the youth and the family.

Through its stakeholders, the Law Foundation identified that the unique needs in equity-seeking communities must be better understood to be properly addressed. Similarly, as Dalhousie Legal Aid demonstrated, responding directly to community requests for assistance with community advocacy, test case litigation, community legal education, access to justice, user guides and research, is fulfilling unmet needs. Nova Scotia Legal Aid has also consulted with the community, including the Indigenous and African Nova Scotian communities and the Immigrant Services Association of Nova Scotia, and developed programs responsive to the needs those groups identified.

The provincial Department of Justice is developing an Indigenous Justice Strategy consisting of four key pillars: People, Partnership, Prevention and Programming. The strategy responds to the cultural needs of clients and employees. For example, under this strategy the department will create a provincial Aboriginal Liaison Officer position (pilot) to provide support and guidance to all four adult correctional facilities with respect to aboriginal cultural programs and services.

The Department of Justice is also developing a [Diversity and Inclusion Strategy](#) for appointments to Agencies, Boards and Commissions. This strategy is being shaped with direction from First Nations, African Nova Scotians and the legal community.



Nova Scotia Justice Minister Mark Furey shares a moment with Vanessa Brooks, whose sister Tanya Brooks was killed in 2009. Minister Furey visited Millbrook First Nation in September 2017 to announce support for Indigenous families and communities that planned to be part of the National Inquiry into Missing and Murdered Indigenous Women and Girls when it visited Nova Scotia.

The Nova Scotia Barristers' Society headed up an initiative to help residents in the Prestons get clear ownership of the land their families have lived on for generations. The Society is working with the province, the [Nova Scotia Community College](#), and the [Association of Nova Scotia Land Surveyors](#) to offer their free services to residents. Building on this work, the Department of Justice and other government departments have worked with the community and Legal Aid to pilot a land claims initiative in five African Nova Scotian communities that supports residents with gaining clear title to their land. The province provided funding for Legal Aid to hire two new lawyers to handle this work. The [Department of Communities, Culture and Heritage](#) has also hired two community investigators and the [Department of Lands and Forestry](#) has hired surveyors and technicians. Community engagement sessions have been integral to shaping the pilot.

legal services available, there is no fully comprehensive point of contact for directing people to those services. A lack of transparency and coordination denies access to the numerous programs and services available. The Law Foundation report states: "The lack of a single site listing all the information about current legal services poses challenges for organizations, big and small, as they try to make sure they are aware of and keep up to date on the many services. It also poses challenges for the individuals seeking information about available services."¹²

The renewed focus of [Nova Scotia 211](#) on legal services, the upgraded [www.nsfamilylaw.ca](#) website, and the tenacity of the [Legal Information Society of Nova Scotia](#) to provide new and better information to Nova Scotians are all examples of initiatives supported by the work of the A2JCC that are helping to address this issue.

- **Vulnerability**

As noted in the Law Foundation report: "There are many historical and socio-economic reasons why certain populations are vulnerable. Often vulnerabilities are interconnected, for example, homelessness, mental health, discrimination, poverty and criminalization. ... [Vulnerable populations] include Indigenous and African Nova Scotian communities, immigrants and refugees, women, the LGBT communities, seniors, youth, individuals living in poverty and/or homeless, and individuals with low literacy skills, mental health issues and/or disabilities."¹¹

- **Information (both the sharing of and barriers to accessing information)**

As the A2JCC discovered, and as documented by the Law Foundation, while there are numerous and diverse

- **Collaboration/Complementary Services**

To improve access to justice, groups must develop coping strategies involving the school system. For example, restorative justice work must highlight the interaction between "life problems" and legal problems, and pursue the creation of links to non-legal bodies, such as libraries, constituency offices and community problem-solvers.

As the Law Society of Upper Canada observed: "Non-legal organizations play a vital role in prevention, legal information, triage and referral. They often serve as 'trusted intermediaries' that help people recognize that they have a legal problem, provide preliminary information, and make referrals to legal service providers. Examples include Indigenous Friendship Centres, immigrant settlement agencies, shelters,

violence prevention groups, disability organizations, health and social service providers, cultural and religious bodies, community centres, public libraries, and information and referral services.”¹³

- **Range of Legal Services**

Adaptive and discrete service offerings are necessary. For instance, Nova Scotia Legal Aid’s adoption of a continuum of service (information, advice, limited retainer, full service) is responsive to the needs of its clients. It abandons the one-size-fits-all approach and the systemic flaw that focused on the needs of justice system professionals and institutions, rather than the people it serves.

Similarly, the Family Justice Access to Justice initiative under the auspices of Nova Scotia Department of Justice has adopted the following philosophy: “The right service at the right time to the right people.” In addition, the Nova Scotia Barristers’ Society has modified its regulatory regime to permit members to offer services under a “limited retainer”, which allows for the provision of legal services for part, but not all, of a client’s legal matter, by agreement with the client.

- **Education (for the legal community, the public at large and the Judiciary)**

Generally, members of the public lack the knowledge and understanding of the law and legal processes that those working in the system typically possess. This lack of legal literacy demonstrates the need to provide better information in a format that also meets the needs of service providers and service consumers, using user friendly formats and materials.

A good example of this was in 2017, when the Department of Justice launched a program offering [Independent Legal Advice for Victims of Sexual Assault](#). Lawyers across the province work to deliver up-front legal advice. The department’s Public Safety Division has also worked with the public province-wide regarding sexual assault investigations and refreshed trauma-informed public education programs began in 2017.

The Nova Scotia Judiciary has also acknowledged the benefit of hearing directly from first voices to provide cultural context to their work. While being careful to respect the bounds of judicial independence, judges from all the Nova Scotia Courts spent two days in June 2018 listening and learning from legal experts and community leaders about the challenges facing the African Nova Scotian community, particularly in the context of the justice system. This idea emerged from earlier sessions between the Judiciary and Mi’kmaq leaders. Those meetings in 2016 focused on the challenges facing the Indigenous community, particularly the issue of child protection.

- **Early Intervention**

Triaging legal problems and connecting people with the help they need before their legal matter goes to court or becomes a crisis is an essential element of improving access to justice. Early intervention and when possible, early resolution, can also help free up court time for more complex legal matters. This is one of the primary focuses of the province’s [Criminal Justice Transformation Group](#).



Crystal Hill of Glooscap First Nation is the Indigenous Social Worker for the Nova Scotia Legal Aid Commission. She assists Indigenous clients with their family law and child protection matters and ensures they have access to culturally relevant resources.

FACTORS FOR SUCCESS

When doing its analysis, the A2JCC also looked at the key factors driving successful access to justice initiatives in Nova Scotia. Those included:

- **Communication**

Better communication, including the use of social media and more traditional tools, helps demystify the courts and tribunal processes. As well, better communication and collaboration with the media ensures more accurate reporting and can help promote access to justice programs and services available to the public.

“... I believe we have reached the point when thoughts and ideas must translate into concrete actions.”

– The Right Honourable Beverly McLachlin

The Nova Scotia website targeting improved access to information on family law matters (www.nsfamilylaw.ca) has tackled this issue head on. It offers information in several formats, utilizing a variety of media. It strives to provide plain language material targeted at a Grade 7 literacy level. As well, the Department of Justice’s Victim Services Division is developing new online information and soon the entire website will be translated into French.

- **Collaboration**

Integrated programs, involving multiple agencies and professionals, can help deal with issues and underlying behaviours that often bring individuals in conflict with the law, as demonstrated by the Nova Scotia Mental Health Court Program, the Court Monitored Drug Treatment Program, the new Gladue Court and Wellness to Healing court programs in Wagmatcook First Nation, and other wellness court programs across the province.

- **Relationships**

The Hub demonstrates that relationships at all levels of the organizations involved are necessary to implement and maintain support for new ways of doing things. This approach is evident in the Mi’kmaw Child Welfare Initiative, where dialogue and engagement across communities and in conjunction with multiple agencies, organizations and institutions helps achieve the initiative’s vision:

Leadership, organizations, stakeholders and community service providers come together, in a coordinated manner, to work collaboratively to create a better future for our Mi’kmaw children and families; a future where Mi’kmaw children are resilient, strongly connected to their culture and community and live in safe, healthy and nurturing homes.

- **Respect**

Society is starting to realize that people’s experiences are just as important, if not more so, than providing legal information and services. As shown with the

#TalkJustice project, it is essential that service providers put the public first and conduct respectful community engagement that is **sincere** (shows a genuine desire to incorporate community feedback into program design or improvement), **substantive** (there is a deliberate effort to articulate a plan for engagement and how the findings will be used), and **sustained** (there is a commitment to transparency, relationship-building, and keeping promises).

- **Focus on Specific Initiatives**

As the Right Honourable Beverly McLachlin, retired Chief Justice of Canada, wrote in 2014: “Finally, we must take action. For much too long, we have researched, written and theorized about the problem of access to justice. While this is undoubtedly necessary, I believe we have reached the point when thoughts and ideas must translate into concrete actions.”¹⁴

The Nova Scotia Barristers’ Society demonstrated an action-oriented approach by making a specific commitment to enhance access to legal services and the justice system for all Nova Scotians, by focusing its strategic alignment on advocacy, education, innovation and research. As well, the Legal Information Society of Nova Scotia provides legal information to Nova Scotians in a variety of ways.

- **Innovation**

Nova Scotia Legal Aid’s decision to move from a service model that provides some level of help to one that assists all Nova Scotians demonstrates how a willingness to do things differently can improve access to justice. Its three core service delivery areas now include criminal law, family law (including child protection) and social justice law.

- **Evaluation/Analytics**

The Nova Scotia Family Law initiative demonstrates how extensive use of analytics to track public uptake of its services and showing support for an ongoing business case can lead to the provision of resources for programs that meet or exceed expectations. Expanding the collection and use of validated statistical data can bring meaningful change, particularly when focused on improvements to programs, services and outcomes for racialized communities.

- **Financial Support**

Funding is critical for any program to be successful. As well, groups cannot sustain the momentum needed to successfully address access to justice challenges if the work is done “on the side of the desk.”

As the National Action Committee stated in its 2013 report:

“Although research on the costs and benefits of delivering and not delivering accessible justice is still developing, there is meaningful evidence tending to establish the benefits of sound civil and family economic investment. Money spent on the resolution of legal problems results in individual and collective social, health and economic benefits.

Based on this developing body of research, a sustainable justice funding model recognizing the realities of current fiscal challenges but also recognizing the long-term individual and collective social and economic benefits that flow from sound justice investment – needs to be encouraged and developed...”¹⁵

PART 2 – Rising to the Challenge

Over the past four years, the A2JCC has helped launch several of its own access to justice initiatives, which are outlined below, while also encouraging and enhancing existing innovative projects to help Nova Scotians navigate the civil and family law systems (see Appendix B).

FREE LEGAL CLINICS

In July 2018, the Nova Scotia Courts opened the province's third [Free Legal Clinic](#) to provide legal advice and support for people representing themselves in court. The clinics in Halifax, Sydney and Yarmouth offer private one-hour sessions with a volunteer practicing lawyer or a law student, by appointment, one day a week.

This initiative was first launched in Halifax in 2015, in Sydney in 2017 and in Yarmouth in 2018, to fill a gap in services for people needing assistance with their civil law matters and family law appeals, excluding child protection. Legal Aid provides duty counsel services at most courthouses to help self-represented individuals with criminal and family law matters, but there was nothing available for other types of cases.

Over the past three years, volunteers working with these clinics have provided hundreds of hours of assistance to self-represented litigants. The Courts will soon be opening a fourth clinic in Truro and expanding the service to more courthouses in the future. Work is also continuing with senior lawyers on the Pro Bono Coordinating Committee to expand the scope of services offered at the Halifax Free Legal Clinic. The hope is to eventually offer free full

representation for select clients, as identified by staff in the Executive Office of the Nova Scotia Judiciary.

NOVA SCOTIA 211

[Nova Scotia 211](#) is a government-funded system that helps connect people with the public services and social programs they need. People can call, text or go online to access this free service.

211 can be especially useful for people representing themselves in court, and has proved valuable for identifying gaps in service and improving the administration of justice. The success rate of getting what you need on the first call is very high (89%)¹⁶.

The A2JCC agreed that 211 should partner with the Committee, serving as a navigator for Nova Scotians looking to access justice, legal and other related programs and services. The benefits of this partnership include enhanced awareness of 211, additional training for 211 staff, reports for stakeholders that identify the needs and where they can make a greater difference, and finally, broader promotion to the public.

Working with 211 Executive Director Mike Myette, the A2JCC has moved this work forward on several fronts, including:

- **Professional Development**

211 has regular professional development days and welcomed the idea of a training session on navigating

the legal system. The Executive Office of the Nova Scotia Judiciary hosted a professional development day at the Law Courts in Halifax on Sept. 23, 2016. The day-long session featured presentations from Nova Scotia Legal Aid, Nova Scotia Family Law, the Legal Information Society of Nova Scotia, and Service Nova Scotia.

- **Taxonomy**

Like most 211 services in North America, 211 in Nova Scotia divides all human and social services into 10 service categories, including Criminal Justice and Legal Services, and then a series of sub-categories. It is possible there are other terms 211 could use to classify its calls in a way that makes more sense for the Access to Justice Coordinating Committee. Work is continuing to ensure the terms being used are consistent throughout the provincial justice system and to explore whether additional terms could be activated to create more robust data.

- **Communication**

The Executive Office of the Nova Scotia Judiciary met with 211 staff in April 2017 to discuss adapting the communications materials that 211 has developed for justice and legal audiences. Following that meeting, the Executive Office reached out to the Department of Justice to discuss a 211 presentation for its staff. The goal is to increase awareness of 211 as a tool to connect people to the justice and legal services they require. Staff at 211 also presented to members of the Justice Communications Group in December 2017 and is hoping to present to members of the Nova Scotia Branch of the Canadian Bar Association to get a sense of the access to justice programs and

services offered by private law firms in the province.

#TALKJUSTICE

Following a presentation from the Nova Scotia Barristers' Society in 2016, the A2JCC agreed to convene a second phase of the Society's #TalkJustice project. The goal was to engage the public and incorporate first voices from people's experiences with justice.

The findings from the first phase are available online at www.nsbs.org. One of the themes that emerged was the frustration with how racialized communities are represented in news coverage. The report notes that many people who took part in the consultations felt the media portray their communities as collectively responsible for the crimes of individuals, something not done to white communities. Many also noted that media do not typically cover access to justice issues that are important to racialized communities.

To help address these issues, the Nova Scotia Courts, the University of King's College and the Barristers' Society co-hosted a panel discussion for journalists and journalism students in January 2017. *A Powerful Tool or A Powerful Weapon: A Panel Discussion on Media's Role in Justice* explored how media coverage of justice issues and crime can affect public confidence in the Courts and how people view the administration of justice. The panel featured three speakers:

- **Nabiha Atallah**, Manager, Communications and Outreach, [Immigrant Services Association of Nova Scotia \(ISANS\)](#)
- **El Jones**, Spoken Word Artist, Journalist, Activist

-
- **Naiomi Metallic**, Assistant Professor, Chancellor's Chair in Aboriginal Law and Policy, [Schulich School of Law at Dalhousie University](#)

The second phase of the #TalkJustice project launched shortly after that event, in February 2017. It was treated as a six-month pilot project with the hope of eventually incorporating the engagement tool as a permanent means to gather feedback for government and community justice organizations to draw from when making policy and funding decisions.

The #TalkJustice team, comprised of representatives from the Nova Scotia Courts, the Barristers' Society, the Nova Scotia Department of Justice, and Legal Aid, gathered stories through in-person sharing circles and anonymously online using *SenseMaker*® software. The program is set up so that users share their experience and answer general questions. Based on their responses, the software can identify important themes and relationships without imposing someone else's lived experiences or unconscious biases on the data.

By the summer of 2017, the project had collected 221 stories. In November, the A2JCC had its first opportunity to analyze the data and stories gathered to date. Working together, the group identified four emerging themes from what they saw:

- **Relationships/Identity:** The group noted from the stories that when going through the justice system, people rely heavily on existing support networks (i.e. friends and family) and have a better experience when they feel the people they encounter in the system truly understand their circumstances.

- **Mental Health:** The group recognized that mental well-being was a regular theme in the stories they read, and that in many cases, when justice system employees consider the importance of a user's mental wellbeing when providing a service, this often matters more to the user than the actual outcome of their matter.

#TalkJustice

STORY 1

I was invited to share my story with the Justice Department at the Court House in Bridgewater. My story was about the domestic violence I experienced as a child. I had no prior experience of visiting the court house and was on edge already from the thoughts of sharing my story with the staff so when I entered the court and was met by two police officers who wanted my personal belongings to look through I felt very violated and then triggered.

- **Help Comes from Various Places:** The A2JCC noted that users often ran into barriers when they were unable to speak with someone who knew how to navigate "the system", and those barriers are sometimes only lifted through good luck.



Chief Justice Michael MacDonald and his A2JCC Co-Chair at the time, former Justice Minister Diana Whalen, pose for a group photo with members of the #TalkJustice team. FROM LEFT TO RIGHT, Jane Willwerth (Nova Scotia Barristers' Society), Emma Halpern (Elizabeth Fry Society of Mainland Nova Scotia), LaMeia Reddick (Kinnected Leadership), Mi'kmaw activist Rebecca Moore, and Rachel Derrah (Brave Space).

#TalkJustice

STORY 2

My friend was indirectly the victim of a crime and had to testify in court. She knew nothing about how the system worked, had no idea why the Crown wanted her to appear in court or what kind of questions she would be asked. I went with her and while we waited, she introduced herself to the Crown and tried to ask him some questions but he paid little attention to her. As the day went on, we were in and out of the court room several times and a journalist told us that the accused person may be working with the Crown to plead guilty. But no one from the court ever told my friend what was going on. At the end the accused pleaded guilty and court was adjourned. Again, no one told my friend that she was no longer required to testify. She was not sure she could even leave or really what had happened.

- **Justice: How do we get there:** The A2JCC described the positive stories as ones where those working within the justice system “met people where they were”. In other words, people are more likely to report that their experience with the justice system was positive when *all* their needs are considered.

#TalkJustice

STORY 3

I am an advocate for incarcerated people and frequently work with crown and defence on release plans. I recently had a really positive experience with a very thoughtful and understanding crown in the Bridgewater area. This crown did not take a punitive approach but rather took a rehabilitative approach and allowed my client to get on her own recognizance. My client is now doing really well in a supportive housing environment, with mental health programming and all kinds of social supports. While in jail on remand she struggled immensely and spent a lot of time in segregation. She did not receive the supports and resources she needed to get well in Burnside and now that she is out she is thriving. She lives in poverty and did not have money for a surety or bail. If not for the willingness of the crown to allow her to be in the community and receive supports on her own recognizance she would not be in the positive place she is in today. I have worked with other crowns who flat out refuse to allow people out without a surety and this can be very problematic because it means they are stuck in jail because of poverty. This was an example of the system working well and helping in the rehabilitation of those with the greatest needs.

The A2JCC’s goal in gathering these stories through #TalkJustice is to gain a better understanding of what is working in the legal system and what is not, to enable incremental changes that will improve people’s experiences in the future.

NON-PROFIT LAW FIRM PROPOSAL

Perhaps the most obvious gap in access to justice in Nova Scotia (and elsewhere) is the lack of affordable legal services for those who earn too much to qualify for legal aid, but not enough to retain private counsel. That prompted the idea of a not-for-profit law firm for Nova Scotia.

“The areas of practice would be those where the need is most obvious – family law, consumer law, employment law and perhaps criminal law.”

The vision is not complicated. A not-for-profit society would be incorporated with directors representing the various players in the Nova Scotia justice system (not unlike those on the A2JCC). Starting in Halifax, modest office space would be leased and young lawyers (and perhaps more seasoned ones) would be retained, either on contract or as salaried employees. Article clerkships would also be available.

Retired lawyers, retired judges, and professors (retired or not) would volunteer as mentors. It may even be possible for practicing members of the Bar to contribute. The project would embrace technology and diversity. The areas of practice would be those where the need is most obvious – family law, consumer law, employment law and perhaps criminal law. The hourly rates would be based solely on the costs of operations (salaries for lawyers, office managers, legal assistants, insurance, and leaseholds, etc.).

The Schulich School of Law at Dalhousie University included the idea of a not-for-profit law firm in its most recent four-year strategic plan. The law school has since established a working group to consider the feasibility of such an initiative. The group includes faculty, law students, the Director of the Dalhousie Legal Aid Clinic and two practising members of the Nova Scotia Bar. Students in the Masters of Business Administration program in Dalhousie’s Faculty of Management will also assist the group with the financial aspects of the feasibility analysis.

PART 3: Moving Forward

The A2JCC member organizations agreed that although the Committee is at the end of its mandate, it did not feel its work was complete. To carry on the initiatives it launched, including the ongoing public engagement through #TalkJustice, the Committee supports establishing an access to justice institute for the province and an access to justice working group, as defined under the institute's governance structure.

ACCESS TO JUSTICE INSTITUTE

After hearing a presentation in September 2017 on the new vision for the [Nova Scotia Law Reform Commission](#), the A2JCC saw an opportunity to help support an access to justice hub for Nova Scotia. This is in response to the identified need for a focal point for the many initiatives underway and to coordinate those that will undoubtedly come after the A2JCC is decommissioned.

The A2JCC also heard about the lack of statistical data available, particularly in civil and family matters and regarding the incarceration of racialized individuals, as pointed out in the presentations from members of the African Nova Scotian community. This type of information is vitally needed and could be tracked by such a hub.

The Department of Justice agreed to provide financial assistance in 2018/19, in conjunction with other funding sources, for an institute that supports access to justice and law reform work, as well as funding for the continued advancement of the #TalkJustice project, through such an institute. The Nova Scotia Barristers' Society will continue to provide in-kind support, as needed, to move this project along.

“The institute... will also work towards preventing the legal problems that marginalized populations face every day in this province.”

As a result, the Law Reform Commission will transition into the Access to Justice & Law Reform Institute of Nova Scotia. The institute will be housed at the Schulich School of Law and will serve as a center for coordination and research on access to justice and as a central repository for information on access to justice research, data and activity. The institute will continue to promote access to justice as integral to law reform and the promotion of responsive, just and effective law and policy in Nova Scotia, but it will also work towards preventing the legal problems that marginalized populations face every day in this province.

Engagement with the public and community organizations will be a key part of the access to justice project development and research. The institute will also compile quantitative data on legal problems and their resolution in Nova Scotia to help inform decision-making on access to justice. As part of its open information mandate, the institute will develop a database of access to justice research, programming and data that is open to the public. As well, the #TalkJustice project will now be

housed at the institute, bringing the voices of those who use the justice system to the forefront of research and programming. Aside from the database, the institute will disseminate data and analysis over social media, on the #TalkJustice website and in data bulletins.

The institute will continue with its law reform mandate, for example, reviewing the intestate succession regime in Nova Scotia. But as part of its new focus on access to justice, it will also look at such things as best practices in community engagement in law and policy reform. It will also work to ensure that all data, research, recommendations and coordination is informed by the needs of those who use the justice system, with attention paid to those who find themselves denied access to this system.

Conclusion

Nova Scotia is now poised to take the action that retired Chief Justice Beverly McLaughlin called for in 2014.¹⁷ The efforts to identify both barriers to and factors for success in enhancing access to justice in our province will assist the judiciary and justice system organizations in implementing new ways of doing things.

Such initiatives must put the public first. The creation of the Access to Justice & Law Reform Institute of Nova

“Do not follow where the path may lead. Go instead where there is no path and leave a trail.

Only those who will risk going too far can possibly find out how far one can go.”¹⁹

Scotia with its emphasis on community engagement and open information, in conjunction with the many service providers coordinating initiatives, some of which are outlined in Appendix B of this report, presents the promise of improved outcomes for those seeking recourse in the justice system. The journey has not come to an end. It has just begun.



Members of the Nova Scotia Judiciary visited the Black Cultural Centre in June 2018 as part of an engagement session with the African Nova Scotian community. Since then, the Chief Justice of Nova Scotia has helped to launch a new African Nova Scotian Access to Justice Judicial Committee, made up of judges and Black community leaders from across the province.

Special Thanks

There have been many organizations and individuals who have contributed to the great work of Nova Scotia's Access to Justice Coordinating Committee over the past four years. Below is a list of past and present A2JCC members and the organizations they represent. Thank you as well to all those who served on the working group for Phase 2 of the #TalkJustice public engagement project, Mike Myette, Suzy Teubner and the entire staff at Nova Scotia 211, staff at the organizations who presented to the A2JCC, and to those instrumental in launching the new Access to Justice & Law Reform Institute of Nova Scotia. We could not have done this without you.

ACCESS TO JUSTICE COORDINATING COMMITTEE MEMBERS

- The Hon. Michael MacDonald, Chief Justice of Nova Scotia (Co-Chair)
- The Hon. Mark Furey, Minister of Justice (Co-Chair)
- Lena Metledge Diab, former Minister of Justice
- Diana Whalen, former Minister of Justice
- Karen Hudson, Deputy Minister of Justice
- Darrel Pink, formerly Nova Scotia Barristers' Society
- Margaret MacInnis, Executive Office of the Nova Scotia Judiciary
- Jennifer Stairs, Executive Office of the Nova Scotia Judiciary
- Alicia Whytewood, Court Services, Nova Scotia Department of Justice
- Jill Perry, Nova Scotia Legal Aid Commission, Nova Scotia representative on the National Action Committee
- Megan Longley, Nova Scotia Legal Aid Commission
- Robyn Elliott, Canadian Bar Association – Nova Scotia Branch
- Camille Cameron, Dean, Schulich School of Law at Dalhousie University
- Kim Brooks, former Dean, Schulich School of Law at Dalhousie University
- David Curry, representative for the African Nova Scotian community
- Angelina Amaral, representative for the Indigenous community
- Rev. Linda Yates, public representative

#TALKJUSTICE WORKING GROUP

- Jane Willwerth, Nova Scotia Barristers' Society
- Emma Halpern, formerly Nova Scotia Barristers' Society
- LaMeia Reddick, Kinnected Leadership
- Rachel Derrah, Brave Space
- Ray MacNeil, Saint Mary's University
- Angela Poirier, formerly Nova Scotia Department of Justice
- Judge Rickcola Brinton, Provincial Court of Nova Scotia (formerly Nova Scotia Legal Aid Commission)
- Rev. Linda Yates, public representative
- Diane Crocker, Saint Mary's University
- Angela Hou, Dalhousie University
- Charlotte Sullivan, Dalhousie University

APPENDIX A – A2JCC Terms of Reference

The Nova Scotia Access to Justice Coordinating Committee

PREAMBLE

As the National Action Committee on Access to Justice in Civil and Family Matters released its report “[A Roadmap for Change](#)” and the Canadian Bar Association released its report “[Reaching Equal Justice: An Invitation to Envision and Act](#)”;

And as there is a commitment in Nova Scotia to building a coherent, collaborative, and coordinated approach to addressing all aspects of the justice system while avoiding duplication of effort and activity;

And because we recognize the constitutionally independent roles of many participants in the justice system and that each part of that system must work to improve those areas in which it has primary responsibility;

And because there is a need to put the public first in considering and implementing improvements in working to improve the justice system;

ESTABLISHMENT OF THE COMMITTEE

The Nova Scotia Access to Justice Coordinating Committee (A2JCC) is hereby established.

PURPOSE

With the goal of making Nova Scotia a national leader in improvements to access to justice, the purpose of the A2JCC is to:

- promote an efficient and cost-effective justice system for all Nova Scotians with an emphasis on justice services that address family law matters, criminal law processes and the individual’s civil legal needs;
- promote an understanding of the importance of equal and accessible justice as a hallmark of a free and democratic society; and
- to encourage the development of a shared purpose in pursuing these objectives

TERMS OF REFERENCE

The A2JCC has the following terms of reference:

1. To provide leadership to a cohesive and collaborative approach for access to justice initiatives in Nova Scotia.
2. To provide, as appropriate, a forum for engaging the public and public sector participants.
3. To share information, monitor and co-ordinate work undertaken, and educate the public on our efforts.
4. To promote innovation in all aspects of the delivery of justice services.
5. To measure the impact of its work by gathering appropriate data and identifying expected indicators of success and outcomes in a manner that does not interfere with judicial independence.

WORKING GROUPS

1. The A2JCC will collaborate with existing (and if necessary will create) working groups which will autonomously address family law matters, criminal law processes and improving the response to civil legal needs. In that process, it will build on work that is already underway.
2. Working groups will be encouraged to:
 - develop Terms of Reference and, within existing budget allocations, identify resources necessary to undertake its activities;
 - engage the public and justice sector participants, as appropriate, in collaborative and coordinated processes designed to address the A2JCC's purpose; and
 - periodically make presentations to the A2JCC.

TERM

The A2JCC will have a term of three years* at which time it is expected that:

- Initiatives pursuant to the ACJCC purpose have been launched in family law matters, criminal law processes and improving the response to civil legal needs;

** To be extended as acknowledged at the September 18th, 2017 meeting*

- Appropriate measurements have been determined and data is being collected; and
- Substantial progress has been demonstrated.

MEMBERSHIP

The following persons will be the members of the A2JCC:

1. The Chief Justice of Nova Scotia – Co-Chair;
2. The Minister of Justice – Co-Chair;
3. The President of the Nova Scotia Barristers' Society;
4. The President of CBA-NS Branch;
5. A member of the African Nova Scotia Bar **
6. A member of the Mi'kmaw Bar **
7. The Dean of the Schulich School of Law;
8. Executive Director, Nova Scotia Legal Aid; and
9. A member of the public

RESOURCES

The work of the A2JCC will be supported by staff from each of the members of the A2JCC. Communications plans and strategies will be developed as appropriate.

ANNUAL ASSESSMENT

The A2JCC will assess progress and that of its Working Groups in meeting their respective purposes on an annual basis.

** September 18th, 2017 meeting

APPENDIX B – Access to Justice Initiatives Across Nova Scotia

There is good work already happening across the province to improve access to justice for Nova Scotians. In addition to those projects that the A2JCC launched as a Committee, below are initiatives of its member organizations, which the A2JCC supports. Of course, this is not meant to be an exhaustive list, rather a snapshot of Nova Scotia's innovative and resourceful responses to this country's access to justice challenge.

CBA-NS LAW DAY

For years, the [Nova Scotia Branch of the Canadian Bar Association](#) has presented an afternoon of free events every April to celebrate Law Day. This is a national event marking the signing of the *Canadian Charter of Rights and Freedoms*, and an occasion for the public to learn about the law, the legal profession, and the legal institutions that form the cornerstones of Canadian democracy.

In 2017, the events included an interactive Q&A session with Chief Justice MacDonald, former Minister of Justice Diana Whalen, and Dennis James Q.C., former President of CBA-NS. The session provided visitors an opportunity to ask questions in person at the Law Courts or electronically via Twitter. The whole exchange was live webcast on the Courts of Nova Scotia website and the archived video is available online.

COLLABORATION WITH PHOENIX YOUTH PROGRAMS

Young people of all ages have visited the Law Courts for the annual [Spread the Love Day](#), participating in mini

mock trials and touring the building. New in 2018, the Nova Scotia Courts worked with [Phoenix Youth Programs](#) and other organizations in the justice system to plan a free Justice Day Camp, which was held on April 19. The program featured stops at Halifax Regional Police headquarters, the Provincial Court and the Law Courts in Halifax.

The initiative is meant to provide young people an opportunity to learn firsthand about the Courts and the organizations that make up the legal system, and give them direct access to judges, lawyers, police officers, and others who work in justice. The project is also meant to help young people, including those from historically disadvantaged communities, to build more positive relationships with law enforcement and justice officials, and encourage participants to consider a career in these fields.

COMMUNITY ORIENTATION

[Pro Bono Dalhousie](#) at the Schulich School of Law is a local student organization with a mandate to provide legal services without charge to organizations and individuals in need across the Halifax Regional Municipality. It matches law student volunteers with community organizations, firms, courts and tribunals under the supervision of qualified lawyers or legal professionals. The students provide assistance in a range of areas, including environmental law, sexual assault law, and prison law. This past year, more than 180 law student volunteers completed placements with more than 40 organizations in the Halifax area. Some of these partnerships included the [Halifax Aboriginal Peoples](#)

Network, the [Legal Information Society of Nova Scotia](#), [Women’s Legal Education and Action Fund](#), the [Provincial Autism Centre](#), and the [Nova Scotia Supreme Court \(Family Division\)](#).

CRIMINAL JUSTICE TRANSFORMATION GROUP

Judges of the Provincial Court, the Department of Justice, Crown Prosecutors, Nova Scotia Legal Aid, the Nova Scotia Barristers’ Society, the RCMP and municipal police force representatives, and the private criminal bar are collaborating to improve the criminal justice system. Its most recent focus has been responding to the Supreme Court of Canada’s decision in *R. v. Jordan*, which established timelines for advancing cases to trial. Improving case processing times, increased use of videoconferencing, improved Crown case file management, adult restorative justice initiatives, and electronic disclosure are just some areas explored by the Group to make the system more efficient and effective.

EQUITY AND THE COURTS

The Nova Scotia Chief Justices and Judges meet annually with members of the CBA-NS Equity Committee and Women’s Forum. The meetings are an opportunity for the judiciary and the Bar to discuss public access issues and possible initiatives to improve access to justice. So far, these discussions have helped produce a guide on how to respectfully interact with trans people and to amend the policy on courtroom attire to accommodate personal circumstances, such as pregnancy.

FINANCIAL SUPPORT

In addition to access to justice programs and services supported by the federal and provincial government, the Law Foundation of Nova Scotia provides grant funding for projects within its statutory objectives. Since 1976, grants have been approved for public legal aid, education, and scholarships, public access to the law, research, and reform, and other law-related initiatives. In 2017, the Foundation shifted its mandate to focus more on funding one-year projects that meet identified needs in Nova Scotia, including access to family law, rural and pro bono services, alternate dispute resolution, affordable legal help, and reaching vulnerable populations, including cultural awareness and competency for service providers.

HALIFAX REFUGEE CLINIC

The [Halifax Refugee Clinic](#) is a non-profit, non-government organization serving refugee claimants, refugees and people in need of protection in Nova Scotia. They provide free legal and settlement services to people who cannot afford the services of private legal counsel.

IWK FAMILY LEGAL HEALTH PROGRAM

It is widely known that legal matters can often become sources of significant worry. Having assistance with those issues can help patients with their health. With that in mind, in 2015, the [IWK Health Centre](#) in Halifax partnered with the [Legal Information Society of Nova Scotia](#) and law firm [McInnes Cooper](#) to establish the [IWK Family Legal Health Program](#), a medical legal partnership to address legal problems that affect a patient’s health or a family’s ability to care for a patient. The program provides free legal assistance to eligible IWK patients and

their families in areas not covered by [Nova Scotia Legal Aid](#), such as labour and employment issues, immigration law, tax issues, and access to government programs.

JUSTICE SYSTEM AND RECONCILIATION

Much work has been done following the final report of the Truth and Reconciliation Commission in 2015. The following represents some of the work in this area:

- **Judicial Community Outreach:** Chief Justices and judges of the Supreme Court (Family Division) travelled to Membertou in June 2016 to hear from Mi'kmaq leaders about the challenges facing Mi'kmaq communities in Cape Breton, particularly in child protection. The meeting was the first of its kind in Nova Scotia, arranged by Associate Chief Justice Lawrence O'Neil in response to the [TRC Calls to Action](#), as well as some alarming trends he noticed while presiding over Family Division matters in Sydney. Similar meetings involving Indigenous leaders and judges were held in Millbrook in September 2016 and again at the Mi'kmaq Native Friendship Centre in Halifax in March 2018.

Since then, the Judiciary has also visited Cherry Brook to learn more about the unique and rich history of African Nova Scotians as a distinct people, as well as the challenges facing the African Nova Scotian community, particularly in the context of the justice system. At the end of the two-day engagement session, Chief Justice MacDonald announced that he will establish a committee to oversee African Nova Scotian community engagement for the entire judiciary. The Supreme Court of Nova Scotia (Family Division) has also agreed to set up a liaison

committee involving lawyers, judges and community leaders that will advise the Court on access to justice and other related issues facing families and children in culturally diverse communities.

- **Council in the Community:** The Council of the Nova Scotia Barristers' Society is responsible for governance and regulation of the legal profession in the public interest. As part of its Council in the Community initiative, Council members and Barristers' Society staff held their September 2018 meeting at the Millbrook Community Centre. At the meeting, the Society reaffirmed its commitment to reconciliation with the Indigenous community. It was also an opportunity for community members, Mi'kmaq and other Indigenous lawyers practicing in Nova Scotia to get involved with the Society's work to respond to the calls to action outlined in the report of the Truth and Reconciliation Commission.
- **Pardon of Grand Chief Sylliboy:** On February 16, 2017, the Nova Scotia Premier granted a [posthumous pardon](#) to Gabriel Sylliboy, a late grand chief of the Mi'kmaq, remembered for defending his people's right to hunt and fish. Grand Chief Sylliboy was 44 years old when he was arrested in 1927 and convicted under the *Lands and Forests Act* for hunting muskrat and possessing pelts out of season. He faced racism and discrimination throughout his court challenge. In 1985, the Supreme Court of Canada overturned the Sylliboy decision. The Court stated then that "...the language used... reflects the biases and prejudice of another era in our history. Such language is no longer acceptable." This is only the second time a free pardon and apology has been posthumously granted in Nova Scotia. The first was for Viola Desmond in 2010.

- **Oland Report:** It is widely accepted that the more inclusive our public institutions are, the broader our perspectives and the more informed our decisions are too. For that reason, in 2016, Chief Justice MacDonald asked Justice Linda Lee Oland, a supernumerary judge of the [Nova Scotia Court of Appeal](#), to consider the issue of diversity on the Nova Scotia benches. Her mandate was to identify appropriate initiatives the Judiciary may undertake to encourage diversity, with a focus on Indigenous Black and Aboriginal representation. Justice Oland consulted with judges, lawyers, academics and others in the community, and came up with [11 recommendations](#)¹⁸ that the Chief Justices have accepted and implemented.
- **Judicial Mentorship Initiative:** One of the recommendations in Justice Oland’s report was to consider whether judicial work shadowing by, and judicial mentoring for, racialized lawyers ought to be instituted. The Chief Justices agreed this was a good idea and worked with the Indigenous Blacks & Mi’kmaq Initiative at the Schulich School of Law to launch the Judicial Mentorship Initiative for African Nova Scotian and Indigenous lawyers. More than 60 Nova Scotia judges volunteered to be mentors and the first six applicants began their mentoring terms in January 2018. The second round of mentorships will begin in early 2019.
- **Eagle Feathers:** In October 2017, RCMP detachments across Nova Scotia began providing Indigenous victims, suspects and police officers with the option to swear legal oaths on a sacred eagle feather. On Nov. 8, 2018, the Nova Scotia Courts announced a similar initiative for courthouses across the province. The feather will be used in the courtroom the same way the Bible, the Koran or an affirmation is used. Those

testifying or signing statements would hold their hand on the feather while swearing an oath to tell the truth. This helps introduce the Mi’kmaq culture into the traditional justice system, and will provide a more inclusive and relevant system for Indigenous peoples.

- **The Mi’kmaq Legal Support Network:** This network provides legal and victim support services to Indigenous people in Nova Scotia, particularly through the Mi’kmaq Court Worker Program and the Mi’kmaq Customary Law Program.
- **Indigenous Justice Strategies:** Organizations like Nova Scotia Legal Aid and the Nova Scotia Department of Justice have launched strategies to better respond to the needs of Nova Scotia’s Indigenous community. Using a consultative approach, such strategies are meant to address both cultural and justice system issues.

NOVA SCOTIA FAMILY LAW WEBSITE

This [website](#) launched in May 2012. It is a collaborative initiative with the judiciary, the Department of Justice Court Services Division, the Nova Scotia Barristers’ Society and Nova Scotia Legal Aid. The initiative is meant to help people better understand their family law issues and provide them with tools to help solve their problems. After hearing from the Nova Scotia Family Law working group, the A2JCC agreed to continue collaborating with the group and promoting its work, including development of a series of video tutorials for people going through the divorce process and a child protection video which has been translated into French and Mi’kmaq.

NOVA SCOTIA HOME FOR COLORED CHILDREN RESTORATIVE INQUIRY

An important lesson our A2JCC members have learned is that justice can mean very different things depending on who you speak with. For the former residents of the [Nova Scotia Home for Colored Children](#), access to justice means more than just uncovering facts and laying blame. That is why when the province was asked to examine the history of the Home, it chose to take a restorative approach, rather than holding a traditional public inquiry. The restorative inquiry aims to reveal and address part of the harmful legacy of racism in Nova Scotia by examining the Home and the experiences of its former residents. It recognizes that we need a process shaped by restorative principles that do no further harm, includes all voices and seeks to build healthy and just relationships so we can treat each other more justly and equitably in the future.

NOVA SCOTIA RAINBOW ACTION PROJECT (NSRAP)

[NSRAP](#) seeks equity, justice, and human rights for 2SLGBTQIA+ (Two-Spirit, Lesbian, Gay, Bisexual, Transgender, Queer and Questioning, Intersex, Asexual & Aromantic) people in Nova Scotia. It works across the province as a voice for people's right to legal and social equity and continues to be a strong advocate for the rights of the community it serves. NSRAP played a key role in advocating for the rights of 2SLGBTQIA+ elders in long-term care. For transgender and non-binary people, NSRAP was instrumental in advocating to have gender confirming surgeries covered by MSI and to have gender markers reflected appropriately on government ID. NSRAP has also participated in numerous human

rights cases involving same-sex discrimination, and was instrumental in bringing marriage equality to Nova Scotians.

PRISONER APPEALS INITIATIVE

In 2017, the Courts asked the recipient of the Cowan Internship to research the issue of ineffective counsel in prisoner appeals before the Nova Scotia Court of Appeal. The [resulting paper](#) canvasses the challenges faced by self-represented prisoner appellants, including consultation with the various players in the Nova Scotia process, and provides practical recommendations on how the process may be improved, including the idea of developing a mobile legal clinic model that could hold clinics for prisoners.

REACHABILITY

[reachAbility](#) is an organization dedicated to equalizing the playing field for people facing barriers. On the access to justice front, the group offers services in the following areas:

- The Community Outreach Initiative (COI) is a free, one-hour information session on a legal topic. These talks give people a unique opportunity to learn more about legal issues that matter to them, and to participate in a discussion on that topic with a legal expert.
- In response to a community need, reachAbility is partnering with the [Halifax YMCA](#) and [Dalhousie University Pro Bono students](#) to provide support to those having difficulty filling out important court forms.
- reachAbility offers a Legal Referral Service connecting people to a volunteer lawyer for a free one-hour consultation.

-
- In conjunction with the Nova Scotia Barristers' Society, reachAbility has developed a model workplace accommodation policy for people who work in the legal profession. The public and employers can refer to the policy when making rules about accommodation in their workplaces.

VIDEO TUTORIALS/RESOURCES FOR SELF-REPRESENTED LITIGANTS

Support in this area has grown exponentially. The following are just some examples of the important work in this area:

- [Nova Scotia Legal Aid](#) provides summary advice at family courthouses, in the community, and all its service offices. There is no financial qualification.
- [AJEFNE](#) (Association des juristes d'expression française de la Nouvelle-Écosse) offers services through a Bilingual Legal Information Centre by phone or in person, providing free, confidential services across Nova Scotia.
- The [Nova Scotia Courts website](#) offers video tutorials and other useful resources for self-represented litigants, which the Judiciary, court staff and members of the Bar helped develop. These include videos on how to file a civil appeal, how to prepare an appeal book, and what to expect when your children are taken into protective custody, as well as written guides to walk litigants through various court processes.
- As previously mentioned, the website www.nsfamilylaw.ca has also developed numerous videos, workbooks and resources targeted at the self-represented in the family law realm.

- [Dalhousie Legal Aid](#) has developed guides addressing tenants' rights, welfare rights, and assisting those on low incomes to deal with Nova Scotia Power. It operates a Telelinks line where people can call for legal information on poverty law issues and also does regular outreach sessions in the community, providing summary advice and legal services to people who arrange appointments through the following organizations: Bayers Westwood Family Resource Center, Chebucto Single Parent Center, Adsum House Women's Shelter, Stepping Stone, Direction 180, Metro Turning Point, and the Dartmouth Family Resource Center. Dalhousie Legal Aid also handles appeals for people turned down for representation by Nova Scotia Legal Aid.
- The [Legal Information Society of Nova Scotia](#) has developed a guide to assist those seeking resolution of disputes in Small Claims Court. It has also introduced an online chat feature to provide legal information to the public.

SEXUAL ASSAULT SURVIVORS

The [Nova Scotia Department of Justice](#) funds the Legal Advice for Sexual Assault Survivors Program. It provides up to 4 hours of free, independent legal advice for sexual assault survivors who are 16 years of age or older. You do not have to report to police or take legal action if you use this service. Registration is done through an independent agency (Nova Scotia 211). Dial 2-1-1 for intake.

WELLNESS AND SPECIALTY COURT PROGRAMS

More Courts in the province are starting to take a collaborative, therapeutic and trauma-centred approach

to deal with certain offences and offenders. As of Aug. 1, 2018, there are eight official wellness court programs and two pilot programs operating in the province, plus two Domestic Violence Court programs in Sydney and Halifax. The success and increasing prevalence of these Courts is due largely to the leadership of the Judiciary, the dedication of justice system partners like Nova Scotia Legal Aid and the Nova Scotia Public Prosecution Service, and funding and court administration from the Department of Justice.

Nova Scotia Mental Health Court Program: Launched in 2009, this court program monitors and supports offenders who have committed a crime in the Halifax Regional Municipality and have a recognized serious and persistent mental illness. Their mental illness must be substantially connected to the offence. Participants are recommended by a team of professionals, including a nurse, two social workers, a forensic psychologist, an addictions worker, a probation officer, a Crown Attorney, a Legal Aid lawyer, and a Provincial Court Judge.

Court Monitored Drug Treatment Program (Dartmouth): Launched in 2015 under the umbrella of the Nova Scotia Mental Health Court Program, this program liaises with the Nova Scotia Health Authority's Opioid Treatment Program in Dartmouth to monitor and support people with opioid addictions who commit crimes based on their addictions.

Judicial Monitoring Program: Launched in 2016 under the umbrella of the Nova Scotia Mental Health Court Program, this is for those offenders who do not have a formal mental health diagnosis but have suffered trauma due to race, ethnicity, and/or abuse.

Alcohol Pilot Program: Launched in 2017 in response to a gap in services and support for some accused persons struggling with alcohol abuse who have come into conflict with the law. This is a pilot project under the Court Monitored Drug Treatment Program in Dartmouth. Participants have committed offences directly related to their alcohol addiction and must meet all the other eligibility requirements that those with an opioid addiction must meet. They must also secure a spot in a long-term residential care program to be accepted into the court program.

Wellness Court Program (Port Hawkesbury): Launched in 2012. Like most wellness courts, this program involves a team of professionals that helps treat the issues contributing to the individual coming into conflict with the law. Collaboration and creative problem-solving are central; unlike the traditional adversarial approach of the regular criminal courts, wellness court programs develop and administer a support plan that is unique to the needs of each individual participant. The court team monitors the individual's progress while still holding them accountable for their crime and continually assessing their potential risk to the public.

Court Monitored Drug Treatment Program (Kentville): Launched in 2014, this court program operates out of the Provincial Court in Kentville. Like the program in Dartmouth, the court team consists of a case coordinator, a probation officer, a Crown Attorney, a Legal Aid lawyer and a Provincial Court judge. Participants may also be represented by private counsel.

Court Monitored Mental Health Program (Kentville): Launched in 2014 as a pilot project. This is now a permanent program thanks to the partnership of

the judges presiding in Kentville, the Department of Justice Court Services Division, the Nova Scotia Public Prosecution Service, Nova Scotia Legal Aid, Community Corrections, and staff with Mental Health and Addiction Services at the Nova Scotia Health Authority.

Wellness Court Program (Amherst): Launched in 2015. Like other wellness courts in the province, this program involves a team of professionals that helps treat the issues contributing to the individual coming into conflict with the law.

Healing to Wellness Court Program (Wagmatcook First Nation): Launched in 2018. This Court is dedicated to Indigenous offenders who plead guilty or accept responsibility for their actions, and are at a high risk to reoffend. This court program looks at the underlying factors that contribute to the person coming into conflict with the law. The sentencing process is delayed approximately 12-24 months to allow time for the offender to proceed through this healing plan.

Gladue Court Program (Wagmatcook First Nation): Launched in 2018. This court program incorporates Indigenous restorative justice traditions and customs, and includes extensive community input. Right now, only Indigenous accused seeking bail, or awaiting sentencing in Wagmatcook and We'koqma'q First Nations are eligible for this program.

Domestic Violence Court Program – This program was first launched in Sydney in 2012. It is now a permanent program there and was expanded to Halifax in February 2018. Its goal is to stop the cycle of domestic abuse by offering families affected by domestic violence early access to programs.

One of the key ways in which domestic violence is different from other crimes is the complex relationship between the victim and the accused. Domestic violence court programs can help the criminal justice system respond to domestic violence through a more collaborative and trauma-centred approach.

These programs allow for the input of experts and for programming options which may help resolve the problems. The decision to identify a case as a domestic violence case is based upon the relationship between the accused and the complainant, not necessarily on the criminal code charge. Assessments of the risks involved, the needs of the accused and the victims, and readiness of the accused to deal with the problems ensure that the appropriate interventions are made available.

WELLNESS COURT PROGRAMS WORKING GROUP

In 2017, a working group of more than 40 representatives was established to examine best practices and provide advice and recommendations to leaders in the provincial health-care and justice systems, to ensure a coordinated approach when implementing new wellness court programs in Nova Scotia. The working group is chaired by the Chief Judge of the Provincial and Family Courts.

Endnotes

- 1 Kohl, Karen (2013) *The Law Society of Upper Canada*, Access to Justice Themes: Quotable Quotes, Page 5
- 2 *Canadian Bar Association, Reaching Equal Justice: An Invitation to Envision and Act* (2013), Page 1
- 3 *National Action Committee on Access to Justice in Civil and Family Matters*, Access to Civil & Family Justice: A Roadmap for Change (2013), Page 8
- 4 *Canadian Forum for Civil Justice, Everyday Legal Problems and the Cost of Justice in Canada: Overview Report* (2016), Page 2
- 5 *Canadian Bar Association, Reaching Equal Justice: An Invitation to Envision and Act* (2013), Page 50
- 6 *The National Self-Represented Litigants Project: Identifying and Meeting the Needs of “National SRL” Self-Represented Litigants* (2013), Page 113
- 7 *Evaluation of the Nova Scotia Conciliation Service (Supreme Court of Nova Scotia, Family Division)* (2012-2013), Page 29
- 8 *Canadian Centre for Policy Alternatives, Manitoba Office, Justice Starts Here: A One-Stop Shop Approach for Achieving Greater Justice in Manitoba* (2017), Page 4
- 9 *Schulich School of Law, Strategic Direction 2017-2021*, Page 14-15
- 10 *The National Action Committee on Access to Justice in Civil and Family Matters: Colloquium Report* (January 2014), Page 2
- 11 *Law Foundation of Nova Scotia, Grants Review and Future Directions* (2017), Page 7
- 12 *Law Foundation of Nova Scotia, Grants Review and Future Directions* (2017), Page 2
- 13 *The Law Society of Upper Canada, Legal Organizations and Access to Justice Alternatives in Ontario* (2014), Page 1
- 14 Rt. Hon. Beverley McLachlin, P.C., retired Chief Justice of Canada, address to the Colloquium of the National Action Committee on Access to Justice in Civil and Family Matters (January 2014)
- 15 *National Action Committee on Access to Justice in Civil and Family Matters*, Access to Civil & Family Justice: A Roadmap for Change (2013), Page 23
- 16 *Nova Scotia 211 Annual Report* (2017), Pg. 3
- 17 *Ibid/Supra*, Footnote 13.
- 18 Courts of Nova Scotia website: http://www.courts.ns.ca/News_of_Courts/DiversityRecommendations.htm
- 19 While there is some discussion about the attribution of the quote it is generally believed to be attributable to Muriel Strode: 1903 August, *The Open Court: Devoted to the Science of Religion, the Religion of Science, and the Extension of the Religious Parliament Idea*, Volume 17, Number 8, Section: Miscellaneous, *Wind-Wafted Wild Flowers* by Muriel Strode, Start Page 505, Quote Page 505, *The Open Court Publishing Company, Chicago, Illinois*.