

HANSARD

NOVA SCOTIA HOUSE OF ASSEMBLY

COMMITTEE

ON

PUBLIC ACCOUNTS

Wednesday, March 29, 2023

COMMITTEE ROOM

**Nova Scotia Legal Aid Commission
Most Recent Annual Report, Business Plan,
Accountability Report and Financial Statements**

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Public Accounts Committee

Hon. Kelly Regan (Chair)
Nolan Young (Vice Chair)
John A. MacDonald
Melissa Sheehy-Richard
Tom Taggart
Kent Smith
Hon. Brendan Maguire
Susan Leblanc
Kendra Coombes

[Kent Smith was replaced by John White.]

In Attendance:

Kim Langille
Legislative Committee Clerk

Gordon Hebb
Chief Legislative Counsel

WITNESSES

Nova Scotia Legal Aid Commission

Charlene Moore, KC - CEO
George Ash - Chair
Jennifer Cain - CPA, CA, Director of Finance



House of Assembly
Nova Scotia

HALIFAX, WEDNESDAY, MARCH 29, 2023

STANDING COMMITTEE ON PUBLIC ACCOUNTS

9:00 A.M.

CHAIR

Hon. Kelly Regan

VICE CHAIR

Nolan Young

THE CHAIR: Order. I now call the Standing Committee on Public Accounts to order. My name is Kelly Regan. I am the MLA for Bedford Basin and the Chair of this committee. A reminder to everyone to place their phones on silent. I am going to ask the committee members to introduce themselves, beginning with MLA Young.

[The committee members introduced themselves.]

I should note that officials from the Auditor General's Office, the Legislative Council Office, and the Legislative Committees Office are in attendance as well.

On today's agenda we have officials with us from the Nova Scotia Legal Aid Commission with respect to their most recent annual report, business plan accountability report, and financial statements. I will ask the witnesses to introduce themselves, beginning with Mr. Ash.

[The witnesses introduced themselves.]

Mr. Ash, would you like to make opening comments?

GEORGE ASH: Thank you, yes. Good morning, Madam Chair and committee members. As you just heard, I am joined by my CEO, Charlene Moore, and our Director of Finance, Jennifer Cain. We are pleased to have this opportunity to speak to the important services that Nova Scotia Legal Aid provides to Nova Scotians.

Access to legal aid services is an essential element of a free and democratic society. Supreme Court Justice Wagner has described legal aid as essential to ensuring a justice system that is fair and efficient for all. He has been quoted as saying that an investment in legal aid was a smart investment.

There have been several studies, nationally and internationally, about the social return of investing in legal aid that would support Justice Wagner's statements. In 2016, the Canadian Bar Association produced a report entitled, *Study on Access to the Justice System - Legal Aid*. In that report they found that investing \$1 in legal aid led to savings of \$6 on public spending for other social services. In other words, investing in legal aid generates social and economic returns that extend beyond the representation provided in court.

Nova Scotia Legal Aid provides a full range of legal services in criminal, family, and social justice, ranging from summary advice to full legal representation for low-income and vulnerable Nova Scotians. NSLA is committed to providing the right service at the right time and in the right way for Nova Scotians. NSLA's Diversity, Equity and Inclusion strategic plan reflects our commitment to diversity, equity, and inclusion in the delivery of services and in the development of our workforce.

Nova Scotia Legal Aid recognizes that we can only fulfill our core values by respecting each other and those we serve, being accountable for our actions, and focusing on the good of the whole. NSLA's commitment will include expanding community outreach and partnerships that support African Nova Scotians and Indigenous communities, anti-racism initiatives, and substantive quality for all equity-seeking groups. NSLA continues a longstanding commitment to collaboration with justice sector stakeholders and community partners to support individuals and families navigating our criminal, family, and civil systems.

Looking forward, NSLA will continue to identify opportunities to ensure that vulnerable Nova Scotians are able to participate meaningfully within the justice system. NSLA's commitment to access to justice will include: continuing support for increased use of restorative justice to divert matters from criminal courts; assistance for families at the earliest stages of child protection involvement; enhancing the use of NSLA service specialists, like our social justice support worker; prison law support worker; African Nova Scotian social worker; and Indigenous social worker to support our clients in criminal and child protection matters.

Nova Scotia Legal Aid is committed to ensuring the health and well-being of our workforce that will prioritize renewed recruitment strategies, improved retention, and greater resiliency in all staff. We are committed to creating a great place to work that is supportive of our legal aid team who are strong advocates for our clients.

NSLA will continue to support:

- utilizing a trauma informed approach within and outside our organization. This will frame issues and responses that align with the experience of our clients and is in keeping with NSLA's strategic priorities under the Diversity, Equity, and Inclusion Strategic Plan;
- innovations in intake and eligibility processes, improving access and service for our certificate clients; redefining outreach; strengthening our social justice delivery; creating flexibility in workspaces; and using technology to create more options for service and operational delivery so that we are proactive and not reactive;
- ongoing advocacy for modernization of our financial eligibility and private bar tariff systems;
- hybrid work environments and technological supports and training needed to enable remote work and remote court appearances for staff and offices;
- modernizing our case management and finance systems, certificate management system, improving data collection, measurement, and reporting.

Most importantly, NSLA continues to operate in a fiscally sound and accountable manner, ensuring core services are maintained while continuing to innovate according to identified strategic priorities while staying on budget.

THE CHAIR: I'm just double-checking that no one else has any opening remarks. We'll now begin questioning with the Liberal caucus. You have 20 minutes, so 9:27 a.m.

Mr. Maguire.

HON. BRENDAN MAGUIRE: First and foremost, I want to thank you for everything you do. I think it's a bit of a thankless job. I know just from my own personal experience with you being in the community, which started with Charlene Moore, the CEO, coming to Spryfield on what was supposed to be once a month or something like that - ended up being a greater need in the community. I want to personally thank Nova Scotia Legal Aid for everything you've done in our community.

We've been able - and I say "we" collectively as a group in the community - to do a lot of things over the last 10 years. But I think this is probably one of, if not the most, impactful things we've been able to do in the community - the services you brought into the community. They've helped a lot of people. From the bottom of my heart, thank you for that.

How many clients per year on average does Legal Aid deal with? And how annoying is this noise?

THE CHAIR: Ms. Moore.

CHARLENE MOORE: I'm just going to look at our 2021-22 fiscal year. Our applications that we received during the course of that year were 41,474 applications. That includes full service delivery to clients. It also includes our duty counsel services that we provide to clients.

What's really notable about that from our perspective is about half of our services we provided that year were duty counsel. That means that there was no financial qualification to utilize those resources. That was both in our criminal court and our family court.

BRENDAN MAGUIRE: I don't know much about the other firms, but I would bet you that Legal Aid is probably one of the busiest, we'll say, law firms in Nova Scotia. It's pretty incredible the amount of people who come in and out of those doors.

Is it fair to say that if there was more money, that you would be able to take on - there would be a greater need? Do you think that you're filling the entire void for legal aid in Nova Scotia? Is there room for more if there were more resources?

CHARLENE MOORE: Nova Scotia Legal Aid has benefited from relatively stable funding for at least the last 20 to 25 years. So in relation to other legal aid plans in the country, we are doing reasonably well in terms of per capita, but there is always more that we can do. If we could do more, we would do more.

What I can say is that we've been extremely innovative in the resources that we have had to continue to expand and provide services within the fiscal constraints of our budget. There are a couple of areas in which in order for us to do more, there would have to be further investment. It was noted in Mr. Ash's opening address that that would relate to the financial eligibility and our certificate private bar system.

BRENDAN MAGUIRE: I'm glad that you mentioned financial eligibility. We obviously know that things are getting more and more expensive. Inflation is happening - the cost of power and housing. Obviously, that's taking away from people's incomes. More is being spent on the necessities.

Are you finding over the last five or ten years that the clientele changed? Are you seeing more people who maybe you normally wouldn't have seen because of the cost of living and inflation, and because of the expenses that are now being put on families?

CHARLENE MOORE: We track financial eligibility. One of the things that we're very good at is our data collection. We've been tracking the eligibility make-up of our clients - the people that we represent and those who we don't represent. Over the last decade, there has certainly been an increase in the number of people who apply to Legal Aid who have income.

Just to back up, under our regulations we provide legal aid to anyone who is in receipt of income assistance. We also provide legal aid to individuals who don't have income, if there is a reasonable explanation for why they don't have a source of income.

In addition to that, we provide legal aid to Nova Scotians who have income based on if they're in a position equivalent to income assistance. We also provide legal aid if it would create undue hardship.

The percentage of people who have income who qualify for legal aid has increased. We can document that over the last 10 years. It's probably ranged from 40 per cent to, I think in 2019-20, it was closer upwards of the late 40s. I could provide that statistical data if the committee is interested in that.

One of the steps that we took to recognize that we wanted to serve more Nova Scotians who are low income - that really is the focus of the people who we try to represent. We put in place a policy that extended our guidelines by if you were over 20 per cent or more - whether we could continue to provide legal aid to you. In some cases, we would ask for a contribution agreement so that we could provide legal services. We've tracked that. We've always tracked it, but over the last decade, we saw more individuals for whom we would provide contribution agreements.

We tracked where they fit within the 20 per cent or more over. I'd say in 2019, about 40 per cent of clients were in the 80 per cent or over who had applied for legal aid and who did not qualify. We can't always represent everybody who is over that eligibility guideline, but the ones we reject, we follow the connection that way.

We've taken steps as a commission to look at the eligibility guidelines. We've looked at other legal aid plans in terms of what they've been doing with their eligibility guidelines. We looked at what it was that we wanted to do, which is to have an eligibility system that's fair, transparent, easy to understand, inclusive, and reflecting of a low-income measure that would help us serve more Nova Scotians.

BRENDAN MAGUIRE: How many communities are you in?

CHARLENE MOORE: We have 23 offices and three suboffices. We have Legal Aid offices wherever there is a courthouse. We have what are called sub courts, so we have duty counsel, family duty counsel in the Sydney Family Court and in the Halifax Family Court. Then we have a small Liverpool office that's like a satellite office.

[9:15 a.m.]

BRENDAN MAGUIRE: What's the average caseload per solicitor at Nova Scotia Legal Aid, on average? How many clients per year are they dealing with, do you think?

CHARLENE MOORE: I don't have that data with me today, but I can certainly provide statistics that would help address that question you've asked.

THE CHAIR: Just before I go to Mr. Maguire - we'll keep a list of things like that, and we'll send that to you at the end, so you don't have to write it all down. Then we'll just make sure you have that list of the additional information that you've committed to.

Mr. Maguire.

BRENDAN MAGUIRE: Is it fair to say that they're busy?

CHARLENE MOORE: Yes, we're busy. In terms of providing services for Nova Scotians, I think I'd just point out that in addition to our lawyers, we have social workers who we refer to. We have court support workers who work in our duty counsel offices, in our domestic violence courts and in our Dartmouth Wellness Court.

We have a social justice support worker who is just dedicated to Cape Breton. We have a prison law support worker. It is a brand new position that we obtained through funding through the Justice Partnership Innovation Program. It's a federally funded program. We have a child protection navigator. To support the services that our lawyers provide, we have those additional service specialists who provide a more holistic wraparound service for our clients.

We're busy, but we work really hard to track the caseloads of our staff and to ensure that they're healthy and manageable. At the end of the day, they're serving the people. What we're all about is serving Nova Scotians.

BRENDAN MAGUIRE: What would happen to those clients, God forbid, if Legal Aid wasn't there?

CHARLENE MOORE: Many of the services that we provide would be a part of state-funded counsel. You may have heard of Rowbotham orders or Rowbotham applications. Those are applications that an individual makes and the Attorney General responds to. What they're asking for is for the province to fund their legal counsel. We see

that in child protection. There are Supreme Court of Canada decisions that speak to the need to have counsel represent you in court, especially when it's the integrity of your family that's at stake. We have that as well in criminal matters, particularly in serious criminal matters. You would see it in a range of criminal matters, because there's liberty interest at stake.

If we didn't have Legal Aid, you would still be funding many of those individuals through the court system, because they would be the subject of Rowbotham or other state-funded counsel applications.

BRENDAN MAGUIRE: So it would actually be more expensive, more than likely, if it was funded that way.

How important are equity and diversity when it comes to legal representation? When it comes to the African Nova Scotian community, the Indigenous community, new immigrants, how important is it for their legal representation to understand, look, and sound like them? How important is it for them to see themselves in the decision-makers in the legal system?

CHARLENE MOORE: I think it's incredibly important. We embarked on a diversity, equity, and strategic plan in 2021. That was the result of an audit that we had undertaken at the request of our Equity and Racial Diversity Committee. It's a really robust strategic plan, because we need to represent the diversity of the communities we serve, and we need to represent that also in our workforce.

We're probably a leader in that, in terms of legal aid plans that have such a comprehensive strategy in place. Our commitment to ensure its success is that we applied for additional funding through the Law Foundation of Nova Scotia to provide the additional support to ensure the success of that plan - and we were successful. We were advised in January this year that we were successful with that Law Foundation of Nova Scotia grant. It's the third grant opportunity that we've had through the Law Foundation of Nova Scotia, because that's what's funded other important work - like our African Nova Scotian social worker, and our social justice support worker in Cape Breton.

It's incredibly important to reflect the people we serve, and especially Indigenous and African Nova Scotian clients, who are overrepresented in our criminal and child protection systems. We keep data on self-identification. We are continually working to improve that identification, but what that does show to us is where there is, in comparison to the population, overrepresentation in this certain area of law.

For example, in child protection, 20 per cent of our child protection clients would be Indigenous. Being able to have that strategic plan and have the services - like our Indigenous social worker and our African Nova Scotian social worker - just ensures we

provide culturally relevant services to our clients, and ensures that they also provide training to our staff.

BRENDAN MAGUIRE: The next question - I don't know how you're going to answer it. Certainly, growing up in the community I grew up in, there was a lot of mistrust in the legal system, for sure. Still to this day, a lot of my close personal friends who are my age, in their 40s, still have a deep distrust of the legal system. They have a deep mistrust of the justice system. I think a lot of people feel like they haven't been given proper legal representation or they haven't had access to justice, I would say.

What do you feel are the determining factors of this mistrust in our legal system for some? What are the determining factors of the overrepresentation of the African Nova Scotian community? I would also say there's probably overrepresentation based on economics too, when it comes to the legal system. What do you feel are the determining factors?

CHARLENE MOORE: That's a very complex question that you've asked of me. That's not going to be quick to answer. When I was thinking about my own experience in representing clients - I was a family lawyer for 23 years, as well as a social justice lawyer. I had to work very hard to build trust with my clients, and most of us with Legal Aid know that. We know that our clients are often vulnerable and marginalized. They've faced discrimination and barriers throughout their lives. They may have experienced intergenerational trauma and other traumas of their own, and they come with complex issues.

Many of our clients may struggle with mental health, as well as addiction, housing insecurity, and income insecurity. I can't answer the question in terms of all of the determining factors, but I can say that from a Legal Aid perspective, what we do is ensure that we treat people with respect, and meet them where they are.

You talked about outreach. Why do we engage in outreach? It was so that we could meet people where they were. It's so that we could go to them and address the barriers they often faced around transportation, taking time off work - even the stigma of coming into and finding our offices.

We found places to provide outreach where we could also be part of the community and we could develop the community trust and relationship. That's a really critical part of outreach - developing those community relationships and the trust so that clients can trust you. That's how we begin to address at least some of those harms. That's where the wraparound services of our social workers and our child protection navigator come in as well - to ensure we are providing that holistic, client-centred, trauma-informed approach to practice.

BRENDAN MAGUIRE: Is it fair to assume that poverty and non-stable housing can, and does, lead to overrepresentation in the legal system?

CHARLENE MOORE: I think what the research shows is that most of us are going to face a legal problem in our lifetime - one in two. I think some of the recent research is that one in two in the course of a three-year period are going to experience a legal problem. If you don't address that legal problem, it often snowballs, and it can lead to other problems in your life that you have. We know that when you're going through that, it's . . .

THE CHAIR: Order, the time for Liberal questions has elapsed. We will now move on to the NDP.

MLA Coombes.

KENDRA COOMBES: If you would like to finish up that thought, that would be fine.

CHARLENE MOORE: The thought process with respect to legal problems if they snowball - that's really what access to justice is about. It's addressing those everyday legal problems because they do snowball, and they do become greater issues. We can see clients who started out with maybe an income security issue - they lost their job. That then impacts their ability to pay their rent and pay their power. If you can't pay your rent and power, you are at risk of losing your housing.

Then sometimes with families, that might lead you into the child protection system, for example, because that housing and income security leads you there. So Legal Aid plays a significant role in providing the legal advice, information, support, and representation to those clients. We provide it across family, criminal and social justice systems, so that we are trying to provide as much legal service to people as we can.

That's where the idea of the investment of \$1 in legal aid creates a social return of \$6, because if you can help reduce eviction, you can also help when you are helping with income security. You can help someone get back into school. You can help address - maybe through the restorative process - their criminal matter, and family and child protection, you are looking at early resolution so that you can avoid a further court case.

KENDRA COOMBES: In Cape Breton, I know I am constantly referring people to Andy. We are keeping him hopping in matters regarding housing. He did the outreach. He came to our office when he started, and we have been keeping him busy ever since.

With that said, in your annual report, it was indicated that housing related matters were rising. I am assuming that does remain the case. I just want to flag one quote from your Social Justice Division and that said, "The housing crisis has also led to landlords persistently trying to evict the same, marginalized tenants, over and over again. Social

justice is, in part, being dogged at holding the same landlords to account and in supporting clients in holding their ground.”

[9:30 a.m.]

Would stronger legislation on evictions and fixed-term leases help reduce this caseload? What about investments into affordable housing - from your perspectives?

CHARLENE MOORE: I’m very glad to hear that our social justice support worker is busy in Cape Breton. He’s doing the work that we wanted him to do.

We engage regularly in collaborations with residential tenancies. We have that stand-alone social justice office, which has a law reform aspect to it, in addition to supporting the other offices across the province.

Housing has been, for the last several years, the number one issue for social justice and for clients coming in. I think whenever you can make investments in affordable housing, it’s going to benefit Nova Scotians. Steps that were recently taken with respect to the rent cap, those also have a benefit to Nova Scotians.

I think the solutions around housing are complex. I think it’s one of the greatest issues that we face. It signifies to us why the work that we do in social justice is so important.

KENDRA COOMBES: I’m just going to be kind of going in all different directions here.

You mentioned that Legal Aid’s first diversity, equity, and inclusion strategic plan was approved in 2021. You’ve also just mentioned that you’ve received a grant on that.

Now that we’re two years into that plan, I’m wondering if you can provide an update on what the remaining goals are in that strategic plan?

CHARLENE MOORE: Some of the work that we’ve done with respect to that DEI strategy is increasing the professional development. It’s mandatory professional development that includes trauma-informed training, which is a key part, also, to the DEI training.

We have our Indigenous Justice initiative. That’s an internal committee, as well as our Equity and Racial Diversity Committee. They work closely with the executive in implementing that strategic plan.

Our social workers are a key component of the DEI strategic plan. They provide service across the province. The Indigenous Justice social worker is for child protection,

specifically, and the African Nova Scotian social worker is for child protection, and criminal adult and youth.

We have developed a hiring strategy and mentoring programs to support clients - diverse staff that we hire. We're improving our self-identification. That's actually a key area. We started, a few years ago, collecting self-identification of our clients. We're continuing to improve that because it means ongoing education of our staff as well. We've also begun collecting the self-identification of our staff to better support them. That's always continually a work in progress.

We developed DEI onboarding documents and a peer mentorship program. We've looked at the Land Titles Initiative, which was really a significant part of the work that we did. The diversity of our commission directors on our board - we look at that as well and to improve that.

Even aesthetics in our office - which really is what you see when you come in through the front door. We're looking at improving that and committing resources to making that space as inclusive and welcoming as you can.

There are other significant elements to that strategic plan that we hope to accomplish over the next couple of years. I can certainly provide a copy of that strategic plan - if the committee is interested - so that you can see what our goals are. It would take too long to go through them all here this morning.

KENDRA COOMBES: That would be great. Thank you very much. I'd appreciate that.

My colleague, the member for Halifax Atlantic, had asked you some of these questions, but I kind of want to drill down a little bit more on them.

We talked about approval ratings earlier for full service. I'm just wondering: What is the current approval rate for full service legal aid? If you have it by subject area, that would be great.

CHARLENE MOORE: I think there were two aspects to that question. I hope I remember them correctly. We provide legal aid for family, criminal, and social justice. Our eligibility is that if you are in receipt of income assistance, you will qualify for Nova Scotia Legal Aid.

We then have what we call an eligibility table. That's what guides us in determining, when a person is in receipt of income, if they would still qualify for legal aid, meeting the undue hardship test or being in an equivalent to social assistance. If you are a single person, under our guidelines you will make \$1,067 gross a month - that is what would qualify for legal aid. That's just an example of a single person. A family of one

parent and two children, I think, would be \$1,406 or \$1,407. I can't find the table in front of me right now.

That table was probably designed in the early 1980s. When we look back at it - our statute was enacted in 1977, and in the mid-1980s we developed this table. Everyone uses that table. The courts use it for their waiver of fees. It's pretty well known. It breaks it down between one adult and right up to two adults with six children - six or more children.

When I talked about the policy, what we had created was we said if you were 20 per cent or more under, you'd automatically qualify. Then we looked at if you were 20 per cent to 50 per cent over, you could also qualify for legal aid. It would be looking at what was the legal issue you were facing. It would look at what the cost of legal services would be privately if you had to retain it. It goes back to the point about state-funded counsel. I mean, it would be incredibly expensive and time consuming for the system if every person had to make an application for state-funded counsel, so that's why there is a legal aid program.

For anyone who's 20 per cent to 50 per cent over, we can still qualify basing on those factors. Then if you're 50 per cent or more over, we probably would look at a contribution agreement if we were qualifying you.

We don't qualify everybody who fits within that income category. A little less than 5 per cent of our applicants are rejected for legal aid, and probably 60 per cent of those are for financial reasons. If it's child protection, we will provide a more relaxed standard of eligibility because we understand what the issues are at stake.

THE CHAIR: Ms. Coombes, you have eight and a half minutes left.

KENDRA COOMBES: Thank you. I think you answered my question and a few more that I actually had to drill into. I appreciate that immensely.

I want to make sure I'm getting something right here. That is the table that was created versus the policy that you have adopted. The table - is that legislated in some way - and then was the policy adopted because that table was too outdated? I'm just trying to follow.

CHARLENE MOORE: Eligibility - I could talk about it all day, actually, because I did quite a bit of work in relation to it and looking at modernizing our eligibility system.

Our regulations allow for a lot of discretion. As I said, it's the regulations that say, equivalent to income assistance, you are on income assistance, or if you meet an undue hardship test. The table is a matter of policy for us. You will not see it in our regulations. It's not statutorily mandated, but that is what we use to guide our determining eligibility for our clients. When you look at how many people we represent, it obviously has an impact on funding.

When we introduced the policy of 20 per cent or more above in qualifying applicants so that we could serve more Nova Scotians, it did increase the number of people that we served across the board. It increased it in family, in criminal - less so for social justice, because most of those clients really have very little income. We had a significant increase in our - for us, it would be a significant increase in the people we were serving. You do reach a max capacity in terms of how many people you can serve with the staffing that you have.

It wasn't a framework that was easily understood. If someone asks us if they qualify for legal aid, they really have to come in, because we're looking at your income, we're looking at your expenses, your assets, we're looking at the legal issue. It's a very complicated analysis, so it's not a quick yes-or-no answer. I can understand when that can be probably frustrating for people who are applying or someone who's coming to your office or someone is asking, do I qualify for legal aid? Why don't I? It is because of the regulatory framework we have in effect.

In moving forward, why we wanted to afford and have been advocating for a more modernized system is one that you could easily see whether you qualify or not, and that the eligibility criteria is clear. I think it is beneficial to not put all of that in the form of a regulation, because you also need some flexibility, but tying our table to a low-income measure would serve more Nova Scotians. It's just that in the 1980s, when that table was drafted, if you were working a minimum wage job, you'd qualified for legal aid as a single individual because you were making probably \$4 or \$5 an hour.

Now the minimum wage is significantly increased so that as a single person, if you're working 25 hours, you're probably not going to qualify. The young family with one adult and two kids, we're looking at those individuals who may be working and who are low-income that we want to serve.

KENDRA COOMBES: With all that being said, and the table being created in the mid-1980s, do you think that the table itself needs to be updated?

CHARLENE MOORE: The commission actually has commissioned a report that we have recommended. We call it a modernization of the table to reflect current low income measures. That could be the Market Basket Measure, it could be LIM-AT, but one in which it's just more reflective of people's current circumstances and income.

KENDRA COOMES: I'm just wondering, can you also describe the impact that the court backlog and judicial vacancies are having on Legal Aid, as well as your clients?

CHARLENE MOORE: I don't think I had actually said this. I don't know if I can do this or not, but if we reject your application, you have the right to appeal. I didn't want to leave a misunderstanding with the committee that there is no other avenue for people who are rejected for Legal Aid.

[9:45 a.m.]

With respect to the backlog - probably the pandemic. We've been tracking what the impact of the pandemic has been on Nova Scotia Legal Aid and our staffing. You'll see some of that in our file analysis that we did in our annual report. Although we did see a slight decrease in applications for Legal Aid during the course of the pandemic, that was understandable. What we also saw was a decrease in the matters completed. It meant that because courts, for a period of time, were closed, because matters had to be adjourned, it took longer for matters to work their way through the court - so it takes longer to close a file. I think those were all reasonable expectations of what happened during the course of the pandemic, and we're now coming out the other side of it.

Legal Aid is part of a few different tables in which we're trying to address the backlog issue. That's part of the work of the Criminal Justice Transformation Group. There is another Provincial Court Crown defence committee in which we try to find some practical solutions to those backlog issues.

In family court and child protection, it just continued on through. There was less of an issue around backlog, and it's less of an issue with respect to family matters. It is really more of an issue in the criminal courts. It has probably added to the file time for our lawyers in the sense that we are keeping a file for a longer period of time. So there are probably more court dates and those adjournments that were related to COVID-19. They have an impact because you get ready, you have to stop, you have to wait for the trial to set over and then you have to start again.

KENDRA COOMBES: As you mentioned with caseloads and that, I'm just wondering - and you've obviously mentioned that you are very busy - what is needed to address the caseload management and make it more manageable, in your opinion?

CHARLENE MOORE: Some of our Duty Counsel services do help with the caseload backlog and efficiencies in the court system. Our Summary Advice Counsel in the family court saw 2,606 people in 2021 - although many of them were self-represented litigants who would not qualify for legal aid. It certainly does help the backlog in the family court when you have people who are self-represented. They have legal advice and information and are kind of armed with the tools to represent themselves in court.

They would also, out of necessity, probably have seen some of our potential clients who hadn't yet had an appointment with Legal Aid. The same with our Duty Counsel services in criminal court, ourselves and non-custodial. They also serve that same function especially because there's no financial qualification. It's providing representation to everyone who is before that court. So that has a way of impacting and creating efficiencies in the system and supporting our lawyers as well, as well as the system overall.

THE CHAIR: Order. The time for the NDP questioning has elapsed. We'll now move on to the PC caucus. MLA Young.

NOLAN YOUNG: I have a couple of questions around the strategic plan. We're coming into the final year of your six-year strategic plan. One of the goals is to ensure that programs are efficiently delivered. I think you mentioned technology, using more support staff efficiently, amongst some other things. Can you give us an update on the progress you've made toward achieving your goals?

CHARLENE MOORE: I'm just thinking, the steps that we've taken to achieve our strategic plan. It's a big question, actually, so I'm thinking about what we've done.

We use technology. So what particularly set us up well for the pandemic was we use technology in terms of developing online applications, ease of access to legal aid. We used technology through Microsoft Teams, so that really allows us to have a remote, flexible workforce. It allowed us to participate in court virtually. When the pandemic came, we actually were well suited. We adjusted - transitioned. We didn't know what was going to be coming for us, but we were able to transition quite well. We've also used that to be able to meet with clients remotely, so they don't have to travel to our offices. We also used that same technology to meet with our clients who are incarcerated.

Technology has been a huge piece of that strategic plan that we've worked towards, so that we have the tech support in the office in terms of screens, audio, cameras, laptops. They enable our lawyers to work from anywhere. That's been a game-changer. For example, in the Northeast Corridor we had a lack of private lawyers taking criminal certificates. We were able to have a lawyer join that firm - he lives in Windsor, works in the Northeast Corridor. He doesn't have to be in that office every day. Because of technology he is able to serve his clients and serve in those courts.

In terms of creating a strong workforce, we hired an HR specialist and focused on our HR development and professional development training for our staff. That included the trauma informed and mandatory cultural proficiency training to meet our DEI needs.

We looked at using non-lawyer staff - our social justice support worker, our court support workers, and our social workers. They kind of fulfill multiple purposes in aspects of the strategic plan - because around the DEI, the wraparound services for clients, connecting them to resources in the community, helping them to develop case plans, and actually strengthening the relationship between the client and the lawyer as well.

We've done a lot of innovation. We created the Child Protection Practice Group. That was really focused on early preventive measures. The Child Protection Practice Group is an example of that. Our commitment to restorative justice - we set a number of restorative justice committees, and are strong advocates for that in the justice system. The social justice support worker was another innovation using non-lawyer staff.

We've created stand-alone offices, which is another part of the strategic plan - which is strengthening services like mental health legal services. We have a stand-alone office and that supports the entire province - lawyers who are in Dartmouth, who support mental health legal services across the province. Our social justice is a stand-alone office.

We created an appeals office for family and criminal appeals, so we have specialized expert resources to do that work. We have a youth office. Of course, we were involved in the Land Titles Initiative - so that was a significant part of our strategic plan.

We've been able to do all of this while continuing to operate in a fiscally sound and accountable manner. We've stayed within budget in order to achieve all of those goals.

NOLAN YOUNG: I think you kind of touched on my next questions as well. I have one more, I suppose. Your strategic plan has a goal that Nova Scotians have improved access to justice. Can you discuss how, through the work of the commission, we are seeing improved access to justice for Nova Scotians? Perhaps you touched on that a little too.

CHARLENE MOORE: I think I would start with what does "access to justice" mean first, and indicate what we've done to achieve that goal.

Meaningful access to justice focuses on people and their ability to access information, institutions, and organizations to understand, resolve, and prevent legal problems. So everything that we do is access to justice.

Our commitment to our social justice and mental health services really helps to improve outcomes by reducing evictions, ensuring income security, connecting with mental health services, and community resources.

Again, everything we do is access to justice. Some of those examples are our summary advice counsel and our criminal duty counsel. Criminal duty counsel is non-custodial, and 24-hour telephone duty counsel. That's available to anybody who's been arrested or detained. It's free and immediate legal advice. Our stand-alone offices, which I referred to, and our services like our prison law support worker, child protection group, and social workers.

We have an online chat. That's for family and social justice matters. Once a week between 3:00 p.m. and 5:00 p.m. on Tuesdays and Wednesdays, if you go on our website and click a little icon, you're going to talk in real time with a lawyer who's going to give you some legal information and navigation about whatever legal issue you have. That is a really easy way to kind of extend access to justice to more people.

NOLAN YOUNG: Thank you. I'll pass it over to my colleague, Mr. White.

THE CHAIR: MLA White.

JOHN WHITE: You've already talked a little bit about marginalized communities, such as African Nova Scotian and Indigenous communities. Since they're so disproportionately represented in the justice system, I want to give you the opportunity to speak a little more on how Legal Aid supports them in a culturally responsive way.

CHARLENE MOORE: I will say that our social workers have probably been one of the most important things we've done. They assist us in ensuring that we provide a culturally responsive service to Indigenous and African Nova Scotian clients. Both workers have very close connections to community. They serve on numerous committees. Our African Nova Scotian social worker was on the subcommittee of the Criminal Justice Transformation Group.

They provide training and resources to our staff. They can help explain to our clients what's going on in court and support them. They help them in case planning. It's a significant service that they provide to our clients that is unique in providing a wraparound service.

The work that we did with the Land Titles Initiative - we were very honoured to be part of that work. That was historic in addressing historic wrongs and ensuring clear title to African Nova Scotians in the five communities that we provided service in.

The IRCAs are another area I think I probably want to highlight. Those are the Impact of Race and Culture Assessments. That's a form of impact litigation that we funded. Early on, it was our Legal Aid lawyers who first identified the importance of using those assessments in court. We funded the experts in order to provide those reports.

Just an understanding of what an IRCA is - it provides information to the court about the history, context, barriers, and systemic racism that an individual has faced. It's a tool that the judge can use in arriving at an appropriate sentence. Those first cases were all Legal Aid lawyers who were advancing that work. Not only did we advance the work, but we supported the professional development of our colleagues and others in the importance of those assessments.

We identified early on that this was something the court itself should be ordering and doing. Rather than the Legal Aid plan deciding how its resources would be best used, all African Nova Scotians in that criminal justice system should have access to an IRCA. It's had an impact. On the national stage, our advocacy, along with some of the work in Ontario, has led to the federal government funding those across the country.

That's a significant example of the work that we can do as a Legal Aid plan to address those historic wrongs in communities.

JOHN WHITE: Excellent, thank you. Closely related again, can you tell us a little bit about how the commission works to promote diversity, equity, and inclusion in the workplace?

CHARLENE MOORE: I'd say the DEI strategic plan is a good example of that. The commitment to professional development training that's culturally proficient will, again, be in our new strategic plan as our commitment to providing culturally proficient services. Maintaining the staffing that we have of our social workers is a key part of it. Engagement in communities and collaboration with communities are key parts to fulfilling those DEI goals.

JOHN WHITE: Finally, for me, it's good to see that you have offices all over the province. That's great to see, but that brings to attention that there are differences in rural and urban areas.

I'm wondering if you're seeing any difference in the caseload, if there are differences in what you're representing and what people need. If so, could tell us a little bit about how you're addressing those needs?

CHARLENE MOORE: I would say that the need for family, criminal, and social justice does not change whether you're in a rural or urban community, but there are extra barriers in rural communities - accessing services, transportation issues. Fewer private bar to take certificates is another pressure that's in rural communities.

We have our offices that provide full service to clients who qualify, but if we have a client who qualifies but is a conflict, we need to rely on the private bar to take a certificate. That can be more of a challenge in rural areas. We've had to create conflict offices from time to time to address that. That's been one of our responses to try to address that gap.

In Cape Breton, for example, we have a conflict office for family and child protection. In the Northeast Corridor, in the mainland, is another example of a conflict office.

During the pandemic, our clients really struggled, so we saw more insecurely housed clients, more people struggling with employment-related issues. That would probably be something that not all the rural offices had seen as much, but saw more of. Offices like Antigonish saw an increase in those issues for them and the challenges their clients were facing.

What we've tried to do is use technology to reduce the impact of those barriers. We use virtual phone meetings and appointments, online applications. We do summary advice by phone, as well as in person to help reduce the challenges people face.

JOHN WHITE: I'm going to pass it to MLA MacDonald.

[10:00 a.m.]

THE CHAIR: MLA MacDonald. Seven minutes.

JOHN A. MACDONALD: I am fortunate enough that I represent an area that has a huge First Nations, which is Sipekne'katik in Hants East. The Crown prosecutor actually had me show up on arraignment day, which I will tell you is interesting - to sit there and go through it. I know they're looking at a wellness court - trying to get it done there. I know just recently, Dartmouth had added a wellness court for theirs. Can you help explain how Legal Aid fits into that and how that process is working?

CHARLENE MOORE: I'm just going to turn to my notes on our mental wellness courts. We have wellness courts. The first wellness court was in Dartmouth. We started that in 2014. We've expanded - I think there are nine regions now in the province that have wellness courts. That's what I was looking for, to make sure I did not have my numbers wrong. There's a wellness court in Wagmatcook. We were involved in the development of that, and our Indigenous social worker attends there.

We have wellness courts in Bridgewater, Amherst and Truro. All those wellness courts have developed because of a commitment by Legal Aid, the Crown, and the court - that those avenues are available to Nova Scotians.

The Dartmouth wellness court is a real success story because of the way in which it started. We have a dedicated lawyer in that court. She's been there since the beginning. When it first started, it was a drug treatment court and a mental health court. The drug treatment court was exclusive to clients with addiction to opiates. It was in partnership with Nova Scotia Health Authority's opiate treatment program at the time. Over time, they recognized they needed to expand to more Nova Scotians, and the first expansion was to include an alcohol pilot project. In 2022, it expanded into a substance use disorder program - so that's SUD.

It's one of two programs in Dartmouth - the other one being the mental health program. That allows clients with substance use disorders related to their offences to make application. It has expanded to many clients with complex, poly-substance use disorders who can be supported by the SUD program. It's an opportunity to change their future. It comes with a lot of work and commitment. Many people are not yet ready to proceed through those programs - and that does happen. But for the ones who do, it's life-changing. It really does reduce the rate of recidivism.

In recognition of how important mental health legal services are, it affects our families, our social justice clients, everyone. We created that stand-alone office. It now has three lawyers, a court support worker, and a legal assistant. They do all of our IPTA hearings - that's the Involuntary Psychiatric Treatment Act. Legal Aid does all of those hearings. We do the Criminal Code Review Board. Legal Aid does all of those hearings.

We do the Criminal Code Review Board. Legal Aid does, principally, all those hearings. That office covers that, as well as the Dartmouth Wellness Court.

We've started a pilot project with our Cells Duty Counsel so that, if in cells, they identify a client with complex needs such as mental health or substance abuse issues, they'll contact the managing lawyer of the Mental Health Legal Services Office, and see if they can fast track the application to them. The sooner that we can get people into the right stream and get them into wellness Court, the better the outcomes for them can be.

THE CHAIR: We have a minute and a half left. There will also be 14 minutes in the next round, so you have lots of time.

Mr. MacDonald.

JOHN A. MACDONALD: You mentioned something in there about poly-something. Could you explain what it is?

CHARLENE MOORE: It just means multiple substances - if people have an addiction to more than one substance. It really is just a way in which you can expand the services and opportunities for people to participate in that program.

JOHN A. MACDONALD: I'll let it go to the next round as opposed to asking a question that won't be answered.

THE CHAIR: Now, we will go back to the Liberal caucus.

Mr. Maguire, you have 14 minutes.

BRENDAN MAGUIRE: I just want to touch on certificates. We know what certificates are for, obviously. They can find legal representation outside of Nova Scotia Legal Aid and present those certificates to private law firms for legal representation.

What I'm hearing more and more from law firms and lawyers is that they're turning down the certificates. The reason that they're turning these certificates down is because of the amount of work that goes into representing an individual, compared to the compensation that the certificates give them. It just doesn't match up.

In some cases, they're using solicitors fresh out of university or fresh out of graduation with little to no experience, maybe. Not to say that it's bad legal representation, but we know that experience can go a long way, too. A lot of private law firms now just won't accept the certificates. We know that.

When is the last time the amount for the certificate went up? In Question Period, we have asked the Minister of Justice questions around the certificates, and if they had any plans on increasing the amount. The answer was, not at this time.

Is the amount given, in your opinion, enough to entice private solicitors to represent individuals? I don't know what your answer is going to be, but we know that most people in private industry are telling us no. A whole bunch of loaded questions there for you.

CHARLENE MOORE: I'll try to answer them in order, if I can.

The first question that I heard was: When have they last changed? Just to explain, if you are under five years at the bar, you receive \$70 an hour. If you're five years or more, it's \$80 an hour. For homicide matters, for example, it would be \$95 an hour - and you have to have 10 years of experience.

They were last increased in 2014. In 2020, we did a survey of the private bar, and asked for their feedback on a whole range of issues related to our certificate system. The greatest pressures that they identified were the hourly rate and the hours given to matters.

BRENDAN MAGUIRE: I just want to be clear here. You gave an hourly rate, but that's not an unlimited number of hours. There is a lump sum for the certificates, and that's what it's supposed to work out to per hour.

We do know that in, for example, a homicide case - actually any case - what we're hearing from private industry is what you just said. The number of hours that are being put in, the certificates aren't covering the amount of time that is actually needed to go from start to finish.

While I appreciate that we're saying \$70 to \$90 an hour, what's happening is a lot of solicitors are going past the amount of hours they are paid for, because they feel a duty to continue to represent those clients, and they're working for free. He won't mind me saying it, but I am talking first-hand because my brother-in-law - a senior partner in Weldon McInnis - has taken lots of these certificates in the past. He said the hours are about 200 per cent more than what you are being paid for, so you are spending a lot of time volunteering.

CHARLENE MOORE: I think there's an element of pro bono work in any private bar lawyer who takes a Legal Aid certificate. To answer your question, our hourly rate and the hours given for preparation - because you get all your court time paid for - there is, set by tariff, an upper limit on hours.

Private bar lawyers have the opportunity to make a request to us to have hours over and above what the tariff allots, and we will - especially where it is warranted - extend those hours on a certificate.

When you have complex criminal matters, like an historical sexual assault, the hours under the tariff are not going to be adequate, so often we would approve additional hours. They have to make the request for that approval. It has been identified that the rate and the tariff hours probably do need to be updated, because matters are increasingly complex. Looking at our average file times, we know they have increased for family, criminal and child protection.

We've taken a number of steps to support the private bar, so they have access to all of our professional development free. They have access to our legal researcher. We have streamlined our certificate invoicing system to use more, easy-to-use fillable forms. We're working towards direct deposit. We're trying to do a number of things that don't really have a cost, but do support them in providing service. Our rates are probably one of the lowest Legal Aid rates in the country when it comes to the tariff. All Legal Aid plans are always reviewing their hourly rate.

I did want to speak to one issue about experience. We have certificate standards. Any lawyer who takes a certificate from us has to meet our certificate standards that are in our tariff. Depending on the complexity of the matter, they have to have a certain number of years' experience in that area of law in order to take the certificate. We would never give a complex matter to a private bar lawyer without also providing them with - especially in a homicide, there's often a second counsel involved, a junior counsel or a staff lawyer involved to assist on the file.

I didn't want to have the perception that we would give complex files to new lawyers.

Most of our lawyers are probably in the first to five years. We lose a lot of private bar lawyers between five and 10 years. A lot of our senior lawyers are retiring, and they are not necessarily being replaced.

In 2014, our pool of private bar was about 300, and now it's 213 - it's not increasing. In the rural parts of the province - that was a question I was asked earlier, about the differences. In rural parts of the province, just the bar in general, they are struggling in having people move into rural areas to take up a practice - and we feel it too. It's mostly the small and solo firms - sole practitioners and small firms do our certificate work. Big firms do not do our certificate work, generally. It would be the small, sole practitioner, small firm. Sometimes a medium-size firm will do it. You don't see those in the rural areas. It's a real access to justice issue.

BRENDAN MAGUIRE: What I'm hearing is that what you said was you've essentially lost one-third of your private sector lawyers. You've gone from 300 to 213. There's a fundamental issue here where the legal representation is decreasing. We're hearing more and more of individuals who, I know - we're dealing with more and more people who are representing themselves in court.

[10:15 a.m.]

The pro bono stuff, while I appreciate it, I don't think that there is any other profession where we expect people to do pro bono. I know that if a plumber came into my house tomorrow and I asked them to fix something, and they say that they'll have it done in three hours - if I say that anything over three hours is going to be pro bono, I think that they would definitely leave. I don't think there's any other profession where we expect pro bono. (Interruption) Art, maybe. I think it's a strange concept.

There is an issue here. There is an issue that a third of the private sector lawyers are no longer taking it. After you hit the 5-year range, you're seeing fewer and fewer experienced lawyers taking that. There's an issue there, because as competent as you can be from one-to-five years, there's also an experience thing.

I think that there's a difference between someone like Joel Pink who's been around since the beginning of time, and who's seen everything under the sun, and somebody who is a year or two in. I'm not trying to dismiss the ability of individuals, but experience goes a long way. Relationships go a long way.

How do we fix that? Obviously, once again, I talk from my own personal experience, that one-to-five years is when you start to build your own clientele and build your firm up. Then you are a little more established. What it sounds like to me is that once lawyers are established, they're no longer taking on certificates. This isn't on Legal Aid.

Would increasing the amount that we're paying, encapsulating the scope of these things - instead of saying that there are only so many hours? Would that help us with replacing the third of the lawyers we've lost over the last 10 years, and bringing some of those more experienced lawyers back into the fold to help?

These cases are complicated. We see it all the time. Is it a matter of financial compensation?

CHARLENE MOORE: In 2020, when we did the survey, we actually wrote a report. There is a commission report on investing in the private bar tariff system. It's called *Investing in Justice: Recommendations to Change the Private Lawyer Tariff System*. It certainly was provided to government in 2021, if my recollection is correct.

We advocated for an increase in expenditure in increasing the hourly rate for tariffs. We recommended an increase in some of the legal matters in terms of the preparation time. So recognizing that that's what the private bar said to us - that the hourly rate and the preparation hours were barriers to them in continuing to do that work. We haven't had an increase in a significant period of time, so it was not surprising that they made that statement.

We've certainly been advocating for that. The private bar plays a critical role along with Legal Aid in safeguarding the interests of Nova Scotians. They take on some of the difficult cases for us, as well. They're involved in the child protection and the senior criminal complex matters.

We've been working with government since then in advocating for an increase to those rates - explaining where our calculations and math come from. We've been looking at other Legal Aid plans across the country as a guide and reference as to where we should be as a plan.

BRENDAN MAGIRE: Thank you for everything. Thank you for all the support you put in our communities.

THE CHAIR: We will now move on to the NDP caucus for questioning. MLA Leblanc.

SUSAN LEBLANC: Thank you, Madam Chair. Hello, and I am sorry I was late. I am the MLA for Dartmouth North, where there are many people who use Nova Scotia Legal Aid, and also Dalhousie Legal Aid Services.

I just want to ask a couple of questions, and I apologize because I didn't hear your opening comments. I just want to clarify a number that I think my colleague was helping me with. Is it correct to say that, in terms of people who apply for help from Nova Scotia Legal Aid and those who receive it, 60 per cent of those people who are rejected, it's because their income is over the 50 per cent threshold? Is that correct?

CHARLENE MOORE: I am just going to go back to our 2021 report - because I have some data with respect to that - to make sure my numbers are correct. It really is a snapshot of 2021-22 - 4.7 per cent of our applications for legal aid were rejected. That's like 1,945 people. They are not only rejected just for financial. They can be rejected because of merit or outside scope - it's not a legal service that we provide.

I'm going to use our 2019 year just because that's the chart in front of me: 50.7 per cent of our total full-service files opened had no income, and 49.3 per cent had some income. When we broke it down as to how many clients exceeded our guideline table that I spoke about earlier, 8.4 per cent had income that was 80 per cent more and above, 6.3 per cent had income between 50 per cent to 79 per cent, and 8.6 per cent had 20 to 49 per cent above.

When looking at our our total rejections, 60.9 per cent of the rejections were for financial reasons. Of that, what I can say is that the bulk of them had income: 42.8 per cent had 80 per cent and above, and the rest fit within that 20 to 79 per cent.

SUSAN LEBLANC: Just doing some quick calculations - and math is not my forte - but it seems to me that that's not hard to do. It's not hard to have more than 80 per cent. If the threshold for a single person is \$1,067 a month, then 80 per cent of that is like \$1,900, somewhere in there, right? \$1,800?

When we look at the rising cost of rent, the rising cost of food, basically there's no money for legal services if you don't qualify for legal aid there. I am asking this because there are people who come to my office who say we don't qualify so we don't have any help. Then I'm running around trying to see if there is any lawyer in the world who will take them on.

It seems to me that a number one issue is funding and changing that metric. I guess my question around that is - we're looking at the Budget right now - how does Nova Scotia Legal Aid present budget requests to the province? Do you make a submission? Do you meet with the minister, or do you meet with the CFO of the Department of Justice? Is there an increase in your budget this year? If not, have you been advocating for much more money? I guess that's where I'll start.

CHARLENE MOORE: I will, if I can, maybe split this question between myself and our Director of Finance, Ms. Cain. I do want to speak to one issue as it relates to financial eligibility. We did create a paper, as I indicated, and we have been working with government. That report was done in 2018 or early 2019, and we have been looking at the costing with respect to that.

The federal government allotted an additional federal spend, which was approved in yesterday's budget, I believe. That was for Legal Aid plans. Our share of that federal spend, part of it has been allotted to do a financial eligibility intake pilot. It is to trial - what we're hoping to do in a region of the province - an updated eligibility framework, so that we can look at how many more people that will actually help and serve, what the impact would be to increase in services, the impact to our staffing and capacity to provide that service, and if there would be a cost implication to it.

It's fairly difficult, I will say, to cost out what it means to increase eligibility thresholds. You have to factor in the demographics, population, who's actually going to need the legal services. So it's a bit challenging to do. That's one of the steps that we're taking to move that particular needle forward.

I will say that because we know there's a large number of self-represented litigants, that's where our summary of vice services and duty counsel are so critical - because there's a certain percentage of self-represented litigants who will never have counsel. They won't qualify for Legal Aid, they won't hire private counsel, they'll never have counsel. The fact that we provide free legal services to anyone in both criminal and family courts is significant, because not even all Legal Aid plans do that without financial qualification - and we do.

I'll turn the second half of the question, if I may, to Ms. Cain to answer in terms of our budgeting process.

THE CHAIR: Ms. Cain.

JENNIFER CAIN: Annually, we work with the Department of Justice. We present our budget pressures in November. One of the projects that Charlene alluded to was coming from federal increase funding. It is difficult to know the one-time funding that the federal government is going to put forward. Obviously, that was just approved yesterday as part of the federal government, so it's timely. We have been fortunate to have been funded well by the Province of Nova Scotia for the last several years.

They do flow through the increased federal funding to us. So last week when the budget was tabled, there was an increase for Legal Aid. I think it amounts to 3.5 per cent. It covers wage claims, and it does cover some increased federal investment that will be coming to the province.

SUSAN LEBLANC: Does it reflect what you asked for?

JENNIFER CAIN: It doesn't cover all the budget pressures that we've been discussing with government, but we are still going through points with the Department of Justice. There are some pressures that were put forward that the Department of Justice has funded from within their own budget over the last couple of years - our child protective practice group, our African Nova Scotian social worker, and the social justice support worker in Cape Breton whom we spoke about earlier. Those have all been funded from the Department of Justice's budget, so we are still having discussions with them.

SUSAN LEBLANC: I want to go back to the certificate question that my colleague was asking. Is there something in place when a client gets matched with a certificate lawyer where the lawyer - are there protections in place for the client? I know of a case where someone in my community, from her point of view, kept being dropped by her certificate lawyer. They'd say, I can't actually take this on anymore. She'd get a new certificate lawyer, they'd take it on, she'd do the whole intake with them, and they would go maybe one more step. Then they'd be like, I can't take this on anymore. Lawyer after lawyer.

I'm just wondering, are there standards in place for that kind of situation? How does the client get protected when going through the certificate process that's funded through Legal Aid?

CHARLENE MOORE: Sometimes it can be challenging in developing solicitor-client relationships - whether you are paying for your lawyer yourself or if it's publicly funded. We provide clients with a certificate list of counsel. We don't choose them for them. We'll assist clients in finding counsel if they ask, but we'll also leave them

the choice to find a counsel that they can develop a good relationship with. Sometimes it can be challenging.

[10:30 a.m.]

I can't speak to that particular circumstance, but in practice, if a client had a concern about their certificate lawyer, they could approach the office out of which the certificate was issued, speak to the managing lawyer, address their concerns - try to have those concerns addressed. One of the things that we can do is issue a new certificate to a different lawyer with the full same prep hours. They kind of start from scratch, fresh, in terms of the hours. That is a benefit to them.

Those are our mechanisms. If it isn't addressed in our regional office and it makes its way up to our executive office to one of our directors, we will look and see what the issues at play are, so that we can support our clients. We try to connect them. If, for example, they're an Indigenous or African Nova Scotian client, we'll bring in our social workers and connect them with the client to see if that's going to assist in helping to improve that relationship.

SUSAN LEBLANC: Great. That's a nice segue to my next question.

We were talking earlier about African Nova Scotian and Indigenous folks being overrepresented in the justice system. You talked a little bit about some of the changes that have been put in place. I'm wondering if Legal Aid ever has anything to do with more upstream thinking about that overrepresentation in the justice system. Is there a place for Legal Aid in getting people to avoid the justice system altogether? That's a big question.

I guess the B part of that is - we're talking a lot about housing right now. We know we have a massive housing crisis. I'm wondering if you are seeing - or if your folks are seeing - a correlation between people entering the justice system and their lack of appropriate housing.

CHARLENE MOORE: To the first question, it's a fairly strong commitment, even in our strategic plan, that if we can work with people at the earliest opportunity - the earlier the better - preventive early resolutions. Restorative justice is an example of non-traditional court processes to resolve criminal matters.

Our Child Protection Practice Group is probably the best example I can say of supporting families who find themselves connected to Child Protection Services, and trying to provide them the information, navigation, and support they need so that they can understand why the agency's involved in their life. We can provide them with the tools, resources, and connections, and they can make good decisions about what it is that they need to do to address the issue. If they need advocacy, we're also there to provide the advocacy that they may need as they're working with the social worker.

It's a very collaborative approach. It's preventive, and it's focused on early resolution. We meant it to also work with those overrepresented populations, so we did a significant amount of outreach . . .

THE CHAIR: Order. The time for the NDP questioning has elapsed.

We'll now move on to the PC caucus and back to MLA MacDonald.

JOHN A. MACDONALD: Thank you, Madam Chair. Are you almost finished, or do you need another minute to finish that?

THE CHAIR: Ms. Moore.

CHARLENE MOORE: Thank you. The Child Protection Practice Group - part of it is that it was also working with Indigenous and African Nova Scotian communities, because those are the communities that are overrepresented. They are very strongly connected with our social workers. A lot of the outreach that we did with that in Dartmouth has been with the East Preston and North Preston communities, as well as working with the Friendship Centre.

I'm losing my train of thought. That really does help to address those issues and that's the kind of early preventive work that we believe in and are strongly committed to. Any time that we have an opportunity to collaborate, we will do so with respect to that.

JOHN A. MACDONALD: I'm not sure who's going to answer this one, but on your website, there have been accountability reports from 2016 to 2020, and they seem to have stopped. I'm just wondering, is there is a reason why they stopped or are they in a different report that's being published?

CHARLENE MOORE: We are legislatively required to prepare an annual report. At the request of government, we've been asked to provide business plans which we put on our website because we are an independent commission.

In 2016, we were asked to provide an accountability report, so you'll see those years we did provide it. We did not receive the request in the last two years.

In preparation for this committee meeting, we actually reached out to government to ask if they wanted us to continue to provide the accountability reports since that's the only reason that they're not there. If the response is that they wish us to, then we will provide them, and we'll provide the previous years as well.

JOHN A. MACDONALD: Just one last question. I think everybody will agree that Legal Aid is an extremely important service. How does Nova Scotia gauge against other provinces on their services in that?

CHARLENE MOORE: I think that we hold up really well. I'm very proud of the work that our lawyers do, and our staff do, and our non-lawyer staff as well.

We are able to provide a full range of service - and family and criminal. Not all plans are able to do that. We provide social justice services. Not all plans are able to provide social justice services.

In 2020, that actually became a key part in our legislation. It actually gave us that legislative authority to provide the social justice and administrative law work that we were always doing a little bit of. It enabled us to say that this is part of our core service. I think that those are significant. We have social workers. That's a fairly unique service that we provide, as compared to other Legal Aid plans.

It's all relative because the plans are different across the province. The funding is different. The needs are different, so we're not always like apples and apples. I think we stand up quite well.

JOHN A. MACDONALD: Can you tell me: How does the Legal Aid federal-provincial-territory table share insights and best practices?

CHARLENE MOORE: It's a great opportunity for the plans, as well as the provincial partners, to share best practices and challenges. They have a series of conferences that starts in the Fall, and that really talk about issues that are affecting Legal Aid plans everywhere.

Nova Scotia Legal Aid were presenters at several of those tables. We had presentations on the work of IRCAs and the role that the African Nova Scotian Justice Institute is playing in that. We are partnering with them in developing protocols for the IRCA assessments.

We spoke about our mental health legal services, the importance of wellness courts, and the work that we were doing in that regard. We shared it, along with other plans, that were doing similar work.

We also talked about the challenges all of us face on recruitment, retention, and wellness. We had our director and HR specialist participate in that panel, along with Saskatchewan and, I think, Ontario - at a talk about what we are trying to do to increase retention, improve recruitment, and obviously increase the wellness of our staff.

They are a great opportunity. It's free. They've done everything virtually. That is also the avenue in which you advocate for more funding for Legal Aid.

THE CHAIR: We're now going to move over to our colleague, MLA Sheehy-Richard, who has eight minutes.

MELISSA SHEEHY-RICHARD: You touched on a question - and I had a few here - about the wellness aspect. It was a goal that was in your strategic plan that staff do have necessary supports for their work. The report discussed matters like the professional development, and the health and wellness of staff. In general, can you talk about how the commission has been working to ensure that your staff is well supported through these challenging times?

CHARLENE MOORE: Some of the work we've done is the monitoring we do of offices to ensure there are appropriate staffing levels. We use the data that we collect through our case management system that helps us statistically look at what the staffing needs are in each office and if they're being met. We look at file numbers, file time and file distribution to ensure healthy caseloads.

We continue to collect data on wait times and accessing legal aid services, and monitoring our staffing levels that way - our professional development of our lawyers and staff. We do a lot of professional development, and we did a lot during the pandemic, in particular through Teams, a virtual format.

We've done a lot of trauma informed training. We've had Myrna McCallum speak to our staff. We had Salvator Abeles, an inspector with Shared Services Canada, talk about the impact of secondary trauma. We've had Wendy McCallum talk about burnout to balance. We had Howard Hurwitz come from Ontario to talk about effective strategies and working with high-conflict clients. That's just an example of some of the PD that we provide.

We have mental health first aid training. Our Indigenous social worker is trained in providing mental health first aid. It's a commitment of ours to provide that to all of our staff.

During the pandemic when we knew it was challenging for people working from home and feeling isolated, we had wellness sessions that we provided by Teams - and both of our social workers led those wellness sessions for our staff.

We have a wellness fund that each office can access. It's a small amount of money, but it's an opportunity for them to do something as a group - and it improves wellness for everyone. Our staff work really hard, so we're actually always encouraging them to use it when they're not using it.

I'd say also that in having an HR person, we've been able to really help us in improving that recruitment, retention and wellness aspect as well - and sort of having that specialty that we didn't have before. I think we first hired in 2019. That was the first time we had an HR person working with us.

MELISSA SHEEHY-RICHARD: I want to go back to the early intervention. The restorative justice is such a good tool that you have in your toolbox. Again, that was in your 2022-23 business plan - because it can seek to reduce the strain on the courts, the social systems, and clients overall.

I know you touched on it earlier, but can you go into a little bit deeper discussion, I guess, on progress that the commission has made on moving towards the goal to date?

CHARLENE MOORE: On the restorative justice side, we sat at the Restorative Justice Committee table, so that's kind of a high-level table. They had a restorative conference in the Fall. We've actually even used restorative processes in dealing with HR issues within our organization. I sit on RAMP, which is dealing with multiple proceedings. It's a restorative process looking at how you can support families who were in multiple proceedings at the same time - in Provincial Family Court, child protection - and specifically looking at files where there is domestic violence involved. So that's taking a restorative approach to it - and our commitment in being involved in other collaborations whenever we have the opportunity to do so, and that child protection group.

I just wanted to say, the whole purpose of that group of lawyers is to work with families at the earliest opportunity. It means they get referrals from the community. They may have referrals from social workers. Because of the success of that, in terms of working with families at the earliest stage and also working with families at the interim hearing stage, it improves the efficiency within the court system. It reduces the number of court appearances. It has an impact for the Department of Community Services and the Department of Justice because it's their resources that are saved when we can support families earlier.

That led to a collaboration of the judiciary with the Department of Community Services, the Department of Justice, and Legal Aid to do the judicial pre-court-led conferencing - which is a phenomenal example of restorative processes. If you have a family that is headed toward court under a supervision order, you can have a judge meet with that family before the application is started and work out a case plan that's going to address all of the concerns, support that family, and alleviate the need for a court application. You've saved not just the time and money, but you save the emotional cost to that family. I always highlight that one because it's probably, I think, one of the greatest examples of going upstream.

MELISSA SHEEHY-RICHARD: It just warms my heart. Many moons ago, I was a legal assistant, a paralegal, and worked in some of the firms that did child protection - and

also under smaller firms that took the certificates, and did some of these referrals. It's kind of exciting to go way back in time and talk about some of these initiatives. Of course, Windsor has a Legal Aid office because we have a courthouse. I know some of the folks there, but they've all long gone probably - and some new faces I should go meet.

[10:45 a.m.]

Can you - in the short period of time - discuss or elaborate on how you are collecting the data to make sure that the commission works to respond as needs and changes evolve and change? How do you keep your data? I know we talked about it, but it might be a nice way to finish up.

CHARLENE MOORE: I'm going to try to be really fast. We have two IT people who serve. We have 195 staff across the province in those 23 offices, providing service. They keep our systems going, but they're also involved in the collecting of data. We use our daily time reports to collect the data that will tell us the types of matters that we are providing service to, how many files we've opened, what we've closed, the average file time, where demand is greater - the areas of law where demand is greater. It also gives us the self-identification piece - so where do we see our Indigenous and African Nova Scotian clients, in particular, and does that reflect an overrepresentation?

I mentioned the 20 per cent . . .

THE CHAIR: Order. Time for questioning has elapsed. My apologies, but nonetheless.

I'd like to thank our witnesses for coming in today and speaking to this very important topic. I don't know if you have any plans to make closing remarks, but if you do have any closing remarks, you are welcome to do so right now.

CHARLENE MOORE: Just quickly, we want to thank the committee for the opportunity of having us here to talk about our program. I also want to thank all our staff who provide the service every day.

I just want to share a quote that our past director with Nova Scotia Legal Aid said: Our history teaches us that legal aid is not a charitable endeavour, but a necessary enterprise. The lawyers who come to Nova Scotia Legal Aid - it's a calling for them. They often see it as a privilege to do the work that they do. I just want to say thank you to them as well.

THE CHAIR: Thank you very much. You are free now to go out into the world and help people with their legal issues, and you won't have to hear the pounding. (Laughter) We'll just continue on with committee business. Thank you very much.

We'll proceed now with committee business. There is no committee business.

Our next meeting date is April 5th. It's in camera - the pre-hearing briefing from the Office of the Auditor General, re the Department of Public Works' most recent accountability report and business plan.

Is there any further business?

There being none, the meeting is adjourned.

[The meeting adjourned at 10:50 a.m.]