

Nova Scotia Legal Aid Practicum Placement

My practicum placement was with Nova Scotia Legal Aid's Dartmouth criminal law office. Nova Scotia Legal Aid is an organization that offers representation to those within Nova Scotia without the monetary resources to hire private counsel to limit the impact of income inequality on justice. Its primary mission is to provide Nova Scotians with free legal services in various areas of law, including criminal, family, and social justice cases. The organization provides legal information and legal advice without financial qualification from a Duty Counsel lawyer over the telephone if you are under arrest and in police custody or at the courthouse if you've been charged or detained. To access full legal representation from a Legal Aid lawyer, clients must meet the financial, area of law, and merit-based qualifications. For the criminal law office, the covered areas of law include offences that would result in sentences of custody or imprisonment, all Youth court cases under pertinent Federal Legislation, and any other cases under the Criminal Code, Controlled Drugs and Substances Act, or other Federal Legislation where Nova Scotia Legal aid believes legal counsel is necessary. In cases involving acts like the Motor Vehicle Act and the Liquor Control Act, Nova Scotia Legal Aid will not usually provide representation, rather they provide legal advice in the form of Duty Counsel. Duty Counsel lawyers can help all Nova Scotians facing criminal or drug charges. They are based in the courthouse and are available to offer legal advice but not permanent, long-term representation.

In my work with Nova Scotia Legal Aid, I primarily shadowed two lawyers: Harry Critchley and Patricia Jones. Mr. Critchley works as an articled clerk at the organization, thus his work was varied. In my time with him, Mr. Critchley held meetings with clients, offered legal advice, and acted as legal representation in court. As well, he worked in the Dartmouth Provincial Court's Duty Counsel office during some of my shifts. In his role as Duty Counsel,

Mr. Critchley overtook intake court, consulting with those who were scheduled for arraignment on the court's docket. In meetings, I assisted Mr. Critchley by jotting down clients' contact information and helping him reach out to the Nova Scotia Legal Aid office to check if a client's application had been processed. Much of these intake court meetings involve beginning the process of legal aid applications or if a client has already applied, checking to see when a lawyer will likely be assigned. This is to ascertain how much time should be given before the next court date so that before then the case can be assigned to a lawyer, the lawyer can review the disclosure, which is the Crown's evidence, and meet with their client. For this reason, first appearances in court are rarely long, as Duty Counsel often requests the court date be re-assigned to months in the future to allow time for those steps to occur.

Throughout my time with Nova Scotia Legal Aid, Mr. Critchley met with various clients but the bulk of his cases regarded impaired driving offences. For many of these clients, these charges were their first concerning driving, so they often pleaded guilty, receiving the minimum sentence of a fee and driving prohibition. For driving offences, it seems common to attempt to hasten the judicial process as the driving suspension that is placed on the accused does not count towards the year-long prohibition that accompanies mandatory minimum sentencing. There is a checklist used to ensure the police did not err in these charges, including ensuring the breathalyzer is not expired, but if the proper steps were taken by the police, these cases are fairly quick and simple as all parties would like to resolve the issue. I learned that personal information and financial situations are often taken into account in these sentences. Frequently, the reasoning behind the client's potentially distressed emotional state and an explanation of their past or present relationship to substances accompanied a discussion of their financial situation and dependents before the judge decided the sentence. This is especially pertinent for the victim fine

surcharge. This fee is 30% of the fine placed upon those convicted of a crime. These fines are used to constitute a fund providing victims of crime with financial support. When this additional fine causes an undue burden, which is not uncommon, lawyers ask for it to be waived or reduced, and often judges comply. This did not happen all of the time as some of the clients charged with impaired driving were employed with a steady income. They likely would not have qualified for Legal Aid but they were being served by Duty Counsel for temporary legal advice as they wanted to quickly address the issue. Often these cases were settled with pleas as proceeding with a trial means they would likely face a worse punishment if convicted as they did not plead guilty at the earliest opportunity which is considered a mitigating factor for judges in their sentences.

The other attorney I shadowed during my time with Nova Scotia Legal Aid was Patricia Jones. Patricia Jones is the managing lawyer of the Halifax Regional Municipality's (HRM) Duty Counsel. I worked with her as she served as Dartmouth Provincial Court's dedicated Duty Counsel. Every Tuesday morning, I went to Dartmouth Provincial Court and observed Ms. Jones as she met with clients, acted as their counsel in court, and assisted her colleagues in their work. I helped with some of the large amounts of paperwork Duty Counsel is forced to handle due to their multitudes of clients. As well, I assisted in searching for clients to ensure that everyone on the docket met with a lawyer before seeing the judge. On one of my days with Duty Counsel, I followed Ms. Jones as she handled motor vehicle court. On this day, almost all of the scheduled cases regarded motor vehicle violations, and as Duty Counsel, Ms. Jones acted as representation for many of those called to court in the cases regarding the Motor Vehicle Act. These cases were primarily extensions or updates on the client's fine payments. The court's willingness to extend these payment deadlines by a few months was dependent on their history of fee payments, so

many who had not been making consistent payments were advised to pay on their court date so this receipt of payment could be considered in extension requests.

In observing the Duty Counsel, I learned so much about the criminal justice system. I was primarily shocked by the severity of one's financial situation necessary to make them applicable for full legal aid services. Everyone who met with Duty Counsel and expressed a desire for Legal Aid representation was encouraged to fill out an application; however, their estimation of their income levels occasionally made it unlikely that some would qualify as the approximate maximum income to qualify for legal aid is \$2000 a month. The expensive nature of private counsel in any form makes this upsetting as there are likely mass amounts of people who would be very negatively impacted by the financial burden of private counsel that will not qualify for services. I was also impressed by Nova Scotia Legal Aid's extensive network of contacts and resources that were often provided to those meeting with Duty Counsel. Community services offering support for criminalized women, Indigenous people, and African Nova Scotians are plentiful and when relevant Duty Counsel offered these resources to clients, going beyond my expectations of the scope of legal advice provided by Duty Counsel.

The importance of the role of Duty Counsel and Nova Scotia Legal Aid is most obvious in instances wherein meetings occur with first-time offenders. Many of Duty Counsel and Legal Aid's clients have been consistently in and out of the criminal justice system, providing them with an understanding of its failings and its backlogged nature. In cases where the accused is unaware of the system, the Duty Counsel offers a crucial service in informing the clients of what the process will look like and how long it will take. Clients with no previous experience with the criminal justice system often spent much of their time with Duty Counsel discussing their confusion as to why the proceedings are so slow-going and emphasizing their frustration with its

inefficacy. In other instances, clients expressed desires that both the judge and the Duty Counsel lawyers advised against. This includes attempts to plead not guilty on their first court date, which is heavily advised against as that would necessitate the setting of a trial date, making representation very inaccessible as lawyers have busy schedules. When the initial advice offered by Duty Counsel is heeded, these instances of judges reiterating Duty Counsel's advice can be avoided, speeding up the process and likely leaving judges with a better impression of the accused.

In other cases the clients expressed hostility towards Duty Counsel, noting their desire to self-represent. Often judges encouraged these people to seek legal advice to ensure that they understood all that goes into self-representation. At court, it appears self-representation delays the justice system, as I witnessed a trial date be scheduled for double its initial allotted time to account for the self-represented defence's inexperience. With the presence of Duty Counsel, some of these delays can be avoided as there is a buffer between the accused and the court that can alleviate any of the client's immediate concerns, ensuring justice is swift and understandable for the accused. As the most accessible lawyers in the courthouse, this benefit also means oftentimes Duty Counsel lawyers assist clients with scheduling errors or general courthouse questions unrelated to specific legal advice. In this way, many of those working with Nova Scotia Legal Aid exceeded my expectations with their patience and care in handling a wide array of concerns from those called into court.

I was able to witness two criminal trial proceedings in my time at the Dartmouth Provincial Court. In the first, Nova Scotia Legal Aid defended one of two co-accused in a home invasion case. I observed the victim's witness testimony and their subsequent cross-examination done by a Nova Scotia Legal Aid lawyer. Interestingly, the victim was highly uncooperative

towards the Crown, treating the Nova Scotia Legal Aid defence attorney with less hostility. The victim pleaded ignorance in response to much of the Crown's questioning, including whether he called emergency services. This was initially surprising until the cross-examination wherein the defence attorney proposed the victim's involvement with drug dealing. This trial was very illuminating as it emphasized that criminal proceedings are in the interest of the public. Although the victim seemed to have no vested interest in the conviction of the accused, their crime was against the Crown and the Nova Scotian people, so the victim's attitude is not the sole concern.

In another trial, an opposing witness attitude was exhibited. I sat in on a sexual assault trial wherein the Crown called a sexual assault nurse as one of their witnesses. With this witness, they examined a form she filled out when the victim visited the sexual assault clinic. Due to the dated nature of the offence, the witness seemed to not remember writing much of the document, although she could identify her handwriting. This witness seemed upset about not being able to provide more fulsome evidence for the Crown. These varied attitudes emphasize the complexities within the justice system. In my previous meetings with solely the Duty Counsel, I greatly sympathized with the clients who often expressed remorse about their non-violent offences. In these trial scenarios, I was met with a harsher reality, especially within the sexual assault trial, as I am very aware that an issue within the criminal justice system is the lack of justice given to survivors of sexual assault.

In my time at the Dartmouth Provincial Court with Nova Scotia Legal Aid, I learned so much about the realities of the criminal justice system and the work of Legal Aid lawyers. I have gained a general understanding of the process of arraignment and sentencing for low-level offences in provincial court, with a newfound awareness that matters are rarely resolved before a few months pass. The mornings were often very busy, even if they initially seemed quiet, and the

lawyers I shadowed were pulled in many different directions. They were very open about the limits of public defence, acknowledging their time constraints, and the inherent advantages wealth brings to certain aspects of the criminal justice system. The accessibility of everyone and the fruitful discussions regarding a legal career and present legal issues were often the most informative, as those around me answered any questions I had regarding the legal process and their experiences as lawyers. I am so grateful to have been able to spend this term accompanying Nova Scotia Legal Aid's Dartmouth team as this placement and the people within it provided me with invaluable first-hand knowledge about the criminal justice system.