



#TALKJUSTICE

REPORT BACK TO PARTICIPANTS

ACCESS TO JUSTICE & LAW REFORM INSTITUTE
OCTOBER 2020

ACCESS TO JUSTICE
& LAW REFORM
INSTITUTE
OF
NOVA SCOTIA



#TalkJustice and You

From October 2018 to March 2020, the Access to Justice and Law Reform Institute met with 200 Nova Scotians living in various locations across the province. We wanted to learn about their unique experiences with the justice system and what it would mean for them to have meaningful access to justice.

The purpose of this report is to record what Nova Scotians shared with us and report back to #TalkJustice participants. Our goal is to ensure that we understand major access to justice issues experienced by individuals living in the province.

While it is not possible to address every challenge uncovered through our conversations in one document, this report covers commonalities that emerged. Particularly, it focuses on how Nova Scotians think about or define access to justice.

The four major trends discussed by #TalkJustice participants are as follows:

1. Individuals want to be treated with greater respect by the legal system;
2. Justice should be based upon empathy, care, and respect;
3. Justice includes a respect for and promotion of human rights; and
4. Emphasis must be placed on the needs of children involved in or impacted by court proceedings.

Table of Contents

#TalkJustice and You	1
The Legal System and Respect for Individuals	4
<i>Access to Legal Information and Legal Assistance</i>	<i>6</i>
<i>Fair Legal Processes</i>	<i>7</i>
<i>Obtaining Results and Court Orders</i>	<i>8</i>
Justice is About Empathy & Care.....	9
<i>Safety & Security in the Legal System.....</i>	<i>9</i>
<i>Shift Legal Processes to Emphasize Empowerment.....</i>	<i>10</i>
<i>Supportive Rather than Punitive Processes.....</i>	<i>11</i>
Justice is About Human Rights.....	13
<i>Addressing Systemic Racism.....</i>	<i>13</i>
<i>Hospitality for Newcomers.....</i>	<i>13</i>
<i>Discrimination Outside the System.....</i>	<i>14</i>
<i>Discrimination in the Justice System.....</i>	<i>15</i>
Access to Justice Includes the Needs of Children and Youth	16
<i>A Child-Centered Family Court System</i>	<i>16</i>
<i>A Child- Centered Criminal Justice Processes</i>	<i>17</i>
<i>Obtaining and Enforcing Court Orders in the Best Interests of Children.....</i>	<i>18</i>
<i>Better Services and Support for Children and Families.....</i>	<i>20</i>

The Legal System and Respect for Individuals

Nova Scotians want to feel empowered when navigating the legal system.

Many #TalkJustice participants experienced a lack of respect from actors in both the justice system and related external systems, such as income assistance and child protection. People described this lack of respect a number of ways.

1. **Lack of a voice.** Individuals do not feel heard or understood by judges, lawyers, police and staff working in legal systems.
2. **Treatment by legal professionals.** Nova Scotians described being treated with suspicion or disregard by lawyers, law enforcement officials and staff working in the legal system.
3. **Validation.** People do not feel that their problems are important to individuals within legal systems.
4. **Access barriers.** Many individuals face a lack of access to information or assistance regarding how to navigate the legal system.
5. **Intimidation.** Nova Scotians feel overwhelmed and intimidated by the legal system and the formality of court proceedings.

#TalkJustice participants explained that they want to feel greater empowerment when navigating the justice system. Empowerment involves the following characteristics:

- respectful treatment;
- access to relevant information and assistance;
- freedom to make choices about how to deal with legal issues;
- fair processes that suit individual situations; and
- authoritative means to enforce court orders.

#TalkJustice participants were also asked to share stories about experiences that resulted in feelings of disempowerment. Overall, a lack of information and limited choices when dealing with the legal system contributed to disempowerment. Most individuals spoke about the need for information to be presented in ways that provide choices, not in ways that make choices. For example, many women dealing with domestic violence issues wished they had understood the amount of time and emotional energy it would take to address the problem through the legal system. Many persons dealing with the family court system for issues other than family violence also said that they wished they had known how expensive and emotionally taxing the experience would turn out to be.

To summarize the discussions with #TalkJustice participants, there is a need for better options in the legal system and court proceedings.

1. **Information** should be relevant and presented in ways that provides individuals with choices; it should not determine choices for them.
2. **Lawyers and legal aid** should be the appropriate fit for a case, meaning that professionals should specialize in areas related to the client's legal problem. This issue is particularly problematic for individuals living in rural Nova Scotia, as they may be required to drive to urban centers to locate appropriate legal assistance.
3. **Choices regarding how legal matters are heard.** Provide assistance to individuals who have difficulty accessing courts due proximity, transportation restrictions, accessibility requirements, and so on.
4. **Options regarding how to file evidence and fill out documentation.**
5. **Choices regarding how to address legal problems.** In some cases, options presented to individuals do not properly address their situation, particularly when dealing with problems such as family violence.

Access to Legal Information and Legal Assistance

In general, Nova Scotians feel lost when confronted with legal problems. Many individuals do not know where to start or how to access information when they have a legal issue. #TalkJustice participants shared stories about receiving inadequate information or being told to go elsewhere to find information. Some felt disrespected by the staff they approached with queries.

Many individuals we spoke with felt confused by the legal process or how court proceedings function. As a result, individuals conducted information searches to learn about the legal system. For example, a number of people did not know how to work with their lawyer or had difficulty understanding how the lawyer-client relationship functions.

Persons who are new to Canada were especially interested in information about how the Canadian legal system works and how specific system actors fit into the process.

A significant barrier to legal assistance involved finances. While many individuals stated that they could not afford a lawyer, their income level was too high to qualify for legal aid. Also, many individuals shared stories about finding themselves in precarious financial situations after paying the high costs associated with legal assistance.

Lawyers stated that barriers to legal assistance also exist because legal aid lawyers are overwhelmed by large caseloads. Many wish they could do more for their clients, but do not have the resources to adequately address each issue that crosses their desks.

After speaking with #TalkJustice participants, we found that the greatest needs for information and legal assistance exist in the following areas:

- determining who to contact or where to go to obtain affordable legal assistance;
- understanding how to work with lawyers or how to set expectations for a lawyer-client relationship;
- knowledge of how legal processes and court proceedings function, including the roles that actors play in the process;

- determining how various systems interact with each other, including income assistance, child support, Canada Child Benefit, child protection, criminal law, family law, and immigration law; and
- understanding how to obtain legal aid and other services that reduce the cost of legal assistance.

Fair Legal Processes

#TalkJustice participants discussed feelings of dissatisfaction with current legal processes. They said that processes are formal and do not provide opportunities to be heard by actors in the legal system. For example, a number of individuals shared stories about cases brought against them that were frivolous and ultimately dismissed. However, they still had to spend time and money to defend their cases.

Other participants spoke about the intimidating nature of the courtroom, which left people afraid to advocate for themselves or tell their full story on the stand. Many people felt that the formal steps in the legal process were deemed more important than their specific situation and circumstance. They also felt that they had been made to comply with processes and settlements that they did not fully understand or agree with. For example, some individuals did not understand the reasons why judges made particular decisions. People expressed that without being able to participate fully in the legal process, such as accessing a lawyer, they did not feel that they received a fair process.



After being beaten up by police officers, I realized the beating was just the beginning. I was then beaten up mentally by lawyers and judges.

When asked what a fair legal process should look like, #TalkJustice participants provided the following characteristics:

- choices regarding the kind of process used;
- the ability to have a voice in the justice process;

- methods to dismiss frivolous claims at early points in the justice process;
- access to less formal and intimidating justice processes;
- the ability to advocate for oneself in court or at a tribunal;
- the absence of pre-judgement based on stereotypes or biases;
- empathy at all points in the system, including form filling and preparing for a process;
- less emphasis on the process and more attention paid to individual situations and needs;
- greater understanding of why decision-makers arrive at decisions;
- the ability to access a lawyer without barriers related to the cost of fees and services;
- the elimination of barriers related to the cost of making an application or filing an appeal;
- the ability to agree to consent orders; and
- equitable treatment of all people using the legal system, regardless of age, race, social status, and so on.

Obtaining Results and Court Orders

Many people shared stories of going through the system, receiving a decision, and then learning that there was no way to receive the results of the decision. For example, we heard stories of people receiving orders for child support only to find that they had trouble collecting payments. Others received orders for custody or access, only to encounter barriers from parents or guardians who did not respect the order. Finally, some victims felt shut out of the legal process or had no control over what was taking place during the process. They felt vulnerable, concerned for their safety or used by the system following legal proceedings.

#TalkJustice participants stated that in the context of obtaining and enforcing court orders, access to justice involves the following characteristics:

- a focus on obtaining results when decisions are made, as process are deemed useless and at worst, damaging, without results;
- victims need greater choices and more support from the criminal law system;
- enforcement of family court orders, especially in the context of high-conflict families;
- streamlined and user-friendly family justice processes, especially for those who cannot afford a lawyer.

Justice is About Empathy & Care

Above all, the law needs to be kind.

#TalkJustice participants shared that justice needs to be about care and empathy. Essentially, justice needs to be kind. This means that the entire legal process should focus on treating people with respect, promoting kindness, and showing empathy for the difficult situations that people encounter. These traits should not merely come into play when final decisions are delivered; they should be embedded in the entire legal process.

The structure and formality of the current legal system creates the following challenges:

- people do not feel protected by the system;
- people feel that they are actively harmed through interactions with staff and professionals involved in the justice system and the court process;
- people feel alienated and distrust the system; and
- people would rather avoid the system than ask for help.

When asked what a system focused on empathy and care would look like, #TalkJustice participants shared the following ideas:

- provide safety for those in need;
- ensure all processes are trauma-informed;
- ensure all persons involved in the system feel heard and are free to participate;
- greater service availability for those in need;
- less reliance on punitive measures; and
- a focus on therapeutic outcomes where possible.

Safety & Security in the Legal System

Many people shared that they did not feel their safety was prioritized in the legal system. For example, we heard stories from victims and survivors of sexualized violence who felt unsafe due to the setup of the courthouse or experienced inadequate distance and protection from their

abuser. Other Nova Scotians who navigated high-conflict family situations stated that an emphasis on maximum contact between children and both parents undermined the safety of children. Finally, a number of individuals stated that discrimination by police dissuaded them from calling local authorities, despite the fact that they were in dangerous situations.

In regard to the ways that safety and security promote access to justice, #TalkJustice participants shared the following ideas:

- the safety of victims of sexualized violence must be given priority;
- victims of violence must be allowed to avoid the accused in courthouses;
- court processes must consider the trauma that survivors of abuse experience when asked to attend court with the accused or act as witnesses;
- limit negative interactions with police so that persons at risk will feel comfortable calling for assistance; and
- prioritize the safety of children in high-conflict family law cases.

Shift Legal Processes to Emphasize Empowerment

Access to justice relies on providing people with the safety they require to navigate the legal system.

However, many individuals shared stories about feeling traumatized by the legal system itself. Long, drawn out processes in family and criminal court created a great deal of stress in people's lives and discouraged them from wanting to use the system to solve their problems in the future. In many cases, persons who were victims of sexualized violence felt re-victimized by a system that required the constant retelling of their story or cast suspicion and doubt on their account. Many felt that the system forced them to put their lives and healing on hold in order to accommodate long, drawn out legal processes.



The event is traumatic enough. Leaving the judicial system is a whole new type of trauma.

In order for legal processes to empower individuals, #TalkJustice participants stated that the following characteristics are essential:

- people need to understand up front how legal cases will proceed and what to expect as they move through all stages of the legal system;
- people involved in legal cases need more control over how cases proceed, including access to information and legal assistance;
- survivors of sexualized violence need to have more control over their involvement with the legal system and court proceedings; and
- a recognition that delays in criminal, family, and civil proceedings negatively impact the mental health of parties involved.

Supportive Rather than Punitive Processes

Many Nova Scotians who had gone through the court system stated that their sense of justice had been violated because at a time when they required support, they met with punishment. For example, people living in poverty or with mental health and addiction issues did not feel supported by any of the legal systems they worked with. In some cases, persons living in vulnerable situations ended up in crisis situation involving the law or a more powerful party.

Other individuals were forced to act against their own best interests because they did not receive fundamental supports like income security, mental health services, translation services and housing security. For example, people who did not receive timely addiction services ended up in prison or were forced to stay in prison because they could not afford bail. Others committed crimes with the intention of being incarcerated; they believed this was a means to receive intervention from emergency services or access a place to stay.



People who are already marginalized are further penalized and criminalized for choices they make out of necessity and as last resorts. Very little consideration is made for people's circumstances and how things affect them, and little help is offered to help heal harms done to them and only focus on harms they may have caused.

To combat these issues, access to justice requires the following:

- a focus on supportive rather than punitive processes, particularly in the context of the criminal justice and child protection systems;
- access to services and support without requiring people to plead guilty or accept longer probation and jail time;
- a focus on processes that seek to repair harm as opposed to furthering conflict;
- greater empathy and the mentality that people deserve a second chance;
- a focus on fundamental supports such as mental health services and housing services;
- support for vulnerable persons to prevent individuals from reaching crisis situations; and
- ensuring that individuals and families are not forced into crisis situations by living far under the poverty line.

Justice is About Human Rights

The justice system must challenge, not reflect systemic discrimination.

Addressing Systemic Racism

- missing and murdered indigenous women
- a lack of trust in law enforcement and fear of retaliation may prevent racialized persons from speaking out about the justice system
- under constant surveillance and being targeted by police
- lack of services in racialized communities, especially with respect to mental health services
- negative interactions with police
- generational trauma
- jobs, financial security, housing, being in positions of decision-making authority, accessing services
- discrimination in the education,
- intersectionality: fear of calling police for security



As a Black woman I have had a lot of negative experiences with the criminal justice system and have asked folks in my community to share their stories about their experiences because I need to see change. Everyone I asked to submit their story is terrified to do so because they are scared to have the crown and police retaliate. That's how frightening crowns are to people. Particularly when people are still in the system and vulnerable, families are terrified to complain.

Hospitality for Newcomers

- experience many problems of low-income persons, such as affordable housing, but with added difficulties
- homeless because of lack of documentation
- connecting and helping immigrants understand the legal system
- internalizing racism

- small barriers like not understanding how to use the phone
- poor housing leading to experiences with bedbugs, cockroaches and rats
- trouble with child protection/translation
- requests for cultural competency
- low income – high cost of medication
- Intersectional: for women newcomers they may be dealing with added issues such as a fear of reporting Canadian husbands if they are sponsoring them
- community pressures as well as pressures from outside Canadian society
- for black newcomer women the added stress of dealing with systemic racism in Canada for the first time while trying to adjust to a new home can be alienating, lead to depression and other mental health issues
- problems finding jobs
- unable to financially bounce back from setbacks such as a fires or being a victim of fraud or theft
- people/companies taking advantage of newcomers
- trouble setting up basic services like internet, communications, car insurance
- welfare penalizes for working and saving money to begin one’s life like buying a car



So, she also came here to the [x] and told her story so they have supported her. But the property manager never listened to her and she perceived that it's because she is black. This made her feel like she has no value to live. She felt like, where she was outside of society, she started to feel like 'this is not our home.' Then she felt like her mind was not right. In the car or on the bus or when she's going out, she feels like she's not herself. She was not coordinating. She was afraid she might catch like mental health or something like that. Like she felt she has no reason to live. No one wants her and she's always being told, 'people are running away from you.'

Discrimination Outside the System

- housing, poverty, trauma
- violence against women
- for persons with disabilities there are challenges related to not being properly accommodated outside of the system
- lack of services and supports for persons with disabilities

- homelessness for persons with mental health issues
- victimization of elder persons using a power of attorney

Discrimination in the Justice System

- questioning rule of law: treated differently based on who you are
- discrimination outside the system is reflected inside the system
- for transgendered persons it is being placed in the wrong facilities and not given proper medications to transition – have a corresponding effect on mental health
- for persons with disabilities they do not feel accommodated inside the justice system
- newcomers not understanding parts of the justice system
- asking for cultural competency
- higher rates of criminalization and interaction with child protection system for racialized persons – all having an effect on mental health
- lack of cultural competency in the justice system – “I wasn’t allowed to talk to my elder”
- lack of help for persons with mental health issues in the system
- in corrections people who need medication are not given medication, lack of general healthcare – HIV scare without being told results, lack of educational opportunities
- lack of mental health services for persons in prison
- revictimizing women who are victims of abuse
- lack of adult protection for persons suffering from mental health, cognitive issues
- stress of involvement in justice system exacerbates mental health issues
- women and children facing their accusers in court
- persons with mental health issues having problems retaining lawyers
- difficulty accessing the justice system if you are poor/racialized
- lack of cultural competency once you get there
- subjective decision-making criteria in the law has a negative effect on racialized persons and communities

Access to Justice Includes the Needs of Children and Youth

The relationships with children and youth are central to our lives. They deserve respect.

Many Nova Scotians stated that the justice system should work harder to understand the needs of children and youth, especially because they cannot advocate for themselves. There were a number of different ways that access to justice needs of children are being overlooked:

- the family law system is not working for children;
- children need to be protected in the criminal law system when they act as witnesses;
- marginalized children fall through the cracks in criminal law and child protection systems; and
- lack of support and services to address the mental health needs of children.

#TalkJustice participants stated that a greater focus must be placed on children's needs. In a practical sense, this would include the following strategies:

- criminal and family court processes need to focus on the best interests children;
- society and the legal system must invest more in services for children and youth; and
- stronger investment in enforcing court orders that are in the best interests of children.

A Child-Centered Family Court System

Court processes in the family court system, as well as the situations that fall under the umbrella of family law, are often stressful for children. For instance, the breakdown of family structures through divorce and separation are traumatizing for children and their families. In many cases, children and youth experience additional trauma because court processes fail to take their needs into consideration. The adversarial nature of family court is harmful and many #TalkJustice participants stated that a greater focus must be placed on the needs of children in high-conflict family law cases, such as those where parents and guardians cannot agree on the terms of care and are in conflict with each other. To reduce the stress that family conflict and parental

separations place on children, participants stated that there is a need for therapeutic processes in family court decisions that affect children.

There is a need for safe and appropriate ways to support children's participation in family court decisions that affect them.

Overall, we heard stories about the need for a more child-centered family court including:

- greater focus on fostering the safe and appropriate participation of children in legal decisions that affect their lives;
- greater focus on the mental health needs of children whose families are involved in family court processes;
- the availability of therapeutic processes in family court;
- training opportunities about the needs of children in high-conflict family situations; and
- including discussions of high-conflict family situations in the Parenting Information Program.



From then until now I've been doing pretty good. I work a lot and do what I can to keep my life on track. But I have no one to fall back on if things get rough. I can only count on myself. But I'm doing good. I've lived in a lot of places and moved around a lot. Mostly I'm on my own and taking care of myself. But I could have been doing a lot better, a lot earlier if I had had supports or somewhere to fall back on when things got rough. So my question is: Is it fair for a kid to grow up like this? Whose responsibility is it to be there for kids like me and is this a problem the law and legal profession can help with?

A Child- Centered Criminal Justice Processes

Nova Scotians shared experiences relating to how criminal courts are failing children and youth, especially those brought to court to serve as witnesses. For instance, several individuals told stories about young witnesses who were victims of sexual abuse and were made to testify in court in front of their abusers. Many of these children were only protected by a screen. Situations like this cause significant trauma and courts need revised child-centered processes when children appear as witnesses and survivors.

There is also a need to provide second chances for youth when they are involved in the criminal justice system. In many cases, poor decisions made during youth can have detrimental effects well into adulthood. In order to provide the best futures for our children, there is a need for greater investment in youth criminal justice proceedings, youth probation, and youth restorative justice processes.

A number of #TalkJustice participants provided positive stories about the strong support offered by restorative justice processes for youth. These programs allow youth to understand the significance of the harm that they caused to the victim and the community at large. They also mitigate the negative influences related to youth detention.

Overall, #TalkJustice participants provided valid suggestions regarding the need for a child-centered criminal justice system. They include the following points:

- better processes for obtaining children’s testimonies in criminal proceedings, such as allowing children to testify outside of the courtroom and not in the presence of the accused;
- better training for police officers involved in child abuse situations, such as child-centered interviewing techniques;
- greater understanding of the effects of delay on children in criminal proceedings, particularly when delays relate to child testimonies;
- investment in counselling and psychiatric service for children involved in the criminal justice system; and
- investment in youth criminal justice, youth restorative justice and youth probation initiatives.

Obtaining and Enforcing Court Orders in the Best Interests of Children

The family law system can be an adversarial system for both parents and children. The process of going through proceedings can have negative effects on parental mental health, which in turn, has a negative impact on children. Even after a matter is heard in family court, troubles enforcing

court orders can keep families involved in the system, a process that is traumatic for children and their families.

One example that was discussed is enforcement around parenting arrangements. Following the conclusion of a court hearing, some parents had difficulty enforcing access to children or were unable to get their children back on time from accessed visits. Both situations put emotional strain on the parents and children involved. In cases where family violence or addictions are factors, individuals discussed stress due to a lack of supervised access supports for parents, particularly those not involved in the child protection system. Some parents stated that reasons for denying access to children linked to a fear of the access parent.

For individuals living in rural areas of Nova Scotia, long delays in receiving and enforcing court orders are often stress factors. Some parents explained that delays in obtaining a family law order setting out a parenting arrangement is not in the best interests of children; not only do these delays create additional stress for parents, but they also create difficulties in managing day-to-day life. For examples, delays prevent parents from advising schools who can pick up children at the end of the school day. The lack of certainty in situations where family law orders are delayed take an emotional toll on children.

Overall, we heard that access to justice for children involved in parental separation means:

- reducing delay in receiving parenting orders;
- investing in services that support the enforcement of family law orders; and



My experience with prison and pregnancy (losing a child) was a huge example of how backwards our systems are, how a mother with child was locked into a jail cell while dealing with the emotions of pregnancy. We keep letting our systems fail women and children without having proper supports, justice and resources in line for more options regarding one's individual needs.

- investment in supervised access services, especially when instances of family violence have been reported.

Better Services and Support for Children and Families

Stories from low income Nova Scotians, including newcomers and racialized persons, centered on the need for greater support for families in general. This includes housing support, income assistance, or mental health and addiction services. For example, several individuals spoke about the experiences of marginalized women who ended up in prison because they were unable to post bail or afford housing. Some had miscarriages in prison or expected that their babies would be taken away by child protective services once they were born. In instances where family violence was also a factor, individuals spoke of the need for support when parents and children when leave transition houses. They also require assistance when navigating family and criminal courts.

Some #TalkJustice participants added that there is a need for mental health services and support for families involved with the child protection system. For many low-income Nova Scotians, problems accessing services or obtaining and retaining housing contributed to interactions with the child protection system.

Overall, Nova Scotians told us that they wanted better services and support for children and families including:

- investment in services and supports addressing trafficking in children and youth;
- investment in services and supports for low income families, including mental health services and affordable housing;
- a focus on women's health and health services in prisons; and
- supports and services for families escaping family violence.

What Does Access to Justice Mean in Nova Scotia?

So far, we learned from #TalkJustice participants that access to justice for Nova Scotians means the following:

- respect for people and their relationships as they go through the legal system;
- justice involves empathy and care;
- justice is about a respect for human rights;
- legal systems should challenge, not reflect systemic discrimination; and
- a greater emphasis must be placed on the needs of children and youth involved in criminal and family courts.

What did we miss?